

Exhibit A
(Declaration of
Effie Anastassiou)

Rough Draft - 1

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NONCERTIFIED ROUGH DRAFT

1 UNEDITED TRANSCRIPTION DISCLAIMER

2

3 THE FOLLOWING TRANSCRIPT OF PROCEEDINGS, OR ANY
4 PORTION THEREOF, IS BEING DELIVERED UNEDITED AND
5 UNCERTIFIED BY THE COURT REPORTER.

6 THE PURCHASER AGREES NOT TO DISCLOSE THIS UNEDITED
7 TRANSCRIPTION IN ANY FORM (WRITTEN OR ELECTRONIC) TO
8 ANYONE WHO HAS NO CONNECTION TO THIS CASE. THIS IS AN
9 UNOFFICIAL TRANSCRIPTION WHICH SHOULD NOT BE RELIED UPON
10 FOR PURPOSES OF VERBATIM CITATION OF TESTIMONY.

11 THIS TRANSCRIPTION HAS NOT BEEN PROOFREAD. IT IS A
12 DRAFT TRANSCRIPT, NOT A CERTIFIED TRANSCRIPT. AS SUCH,
13 IT MAY CONTAIN COMPUTER-GENERATED MISTRANSLATIONS OF
14 STENOGRAPHIC CODE OR ELECTRONIC TRANSMISSION ERRORS,
15 RESULTING IN INACCURATE OR NONSENSICAL SYMBOLS WHICH
16 CANNOT BE DECIPHERED BY NONSTENOGRAPHERS.

17 CORRECTIONS WILL BE MADE IN THE PREPARATION OF THE
18 CERTIFIED TRANSCRIPTION, RESULTING IN DIFFERENCES IN
19 CONTENT, PAGE AND LINE NUMBERS, PUNCTUATION, AND
20 FORMATTING.

21

22

23

24

25

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NONCERTIFIED ROUGH DRAFT

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 COUNTY OF SAN BENITO

3

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4
5 SNOW SEED CO., A CALIFORNIA CORPORATION,
6 PLAINTIFF(S),
7 VS. CASE NO.
8 CU0700149
9 FRESH 'N HEALTHY, INC., ET AL.,
10 DEFENDANT(S).

11 _____/

12
13
14
15
16 DEPOSITION OF STEVEN A. CINELLI

17
18
19
20 THE FOLLOWING DEPOSITION WAS GIVEN ON THE 11TH OF
21 MARCH, 2008, COMMENCING AT THE HOUR OF 9:15 A.M., BEFORE
22 ELIZABETH ALDRICH, CERTIFIED SHORTHAND REPORTER, LICENSE
23 NUMBER 6100.

24 THE WITNESS PERSONALLY APPEARED AT 242 CAPITOL
25 STREET, SALINAS, CALIFORNIA.

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NONCERTIFIED ROUGH DRAFT

1 INDEX
2 EXAMINATION BY: PAGE
3 ATTYNAME PG#
4 ATTYNAME PG#
5
6
7 DEPOSITION EXHIBITS: PAGE
8 EX#ORLETTER EXDESC PG#

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9	EX#ORLETTER	EXDESC	PG#
10	EX#ORLETTER	EXDESC	PG#
11	EX#ORLETTER	EXDESC	PG#
12	EX#ORLETTER	EXDESC	PG#
13	EX#ORLETTER	EXDESC	PG#

14

15

16

17

18	APPEARANCE PAGE	PG#
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19	DEPONENT'S SIGNATURE PAGE	PG#
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20	REPORTER'S CERTIFICATE PAGE	PG#
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21

22

23

24

25	ROUGH DRAFT - 4	NONCERTIFIED ROUGH DRAFT
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1	APPEARANCES
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2

3	FOR PLAINTIFF, SNOW SEED:
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4	EFFIE F. ANASTASSIOU, ESQ.
---	----------------------------

5	ANASTASSIOU & ASSOCIATES
---	--------------------------

6	242 CAPITOL STREET
---	--------------------

7	SALINAS, CA 93901
---	-------------------

8	TELEPHONE: 831-754-2501
---	-------------------------

9	FAX: 831-754-0621
---	-------------------

10	EMAIL EFFIEESQ@SALINASAGLAW.COM
----	---------------------------------

11

12	FOR PARTY NAME :
----	------------------

13	ATTORNEYNAME
----	--------------

14	FIRM (OPTIONAL)
	Page 3

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15 ADDRESS1
16 CITY STATE ZIP
17 TELEPHONE: PHONE
18 FAX: FAX
19 EMAIL EMAIL (OPTIONAL)
20
21
22
23
24

□ Rough Draft - 5

NONCERTIFIED ROUGH DRAFT

1 SALINAS, CALIFORNIA
2 TUESDAY, MARCH 11, 2008, 9:15 P.M.
3 --000--
4 STEVEN A. CINELLI,
5 FIRST DULY SWORN BY THE CERTIFIED SHORTHAND REPORTER,
6 ELIZABETH ALDRICH, TO TELL THE TRUTH, THE WHOLE TRUTH,
7 AND NOTHING BUT THE TRUTH, TESTIFIED AS FOLLOWS:

8 EXAMINATION

9 BY MS. ANASTASSIOU:

10 Q. PLEASE STATE YOUR NAME FOR THE RECORD?
11 A. STEVEN A CINELLI, C-I-N-E-L-L-I.
12 Q. AND WHAT IS YOUR CURRENT RESIDENCE ADDRESS?
13 A. 24605 HEATHER HEIGHTS ROAD.
14 Q. SPELL THAT, HEATHER HEIGHTS?
15 A. HEATHER, H-E-A-T-H-E-R. HEIGHTS,
16 H-E-I-G-H-T-S, ROAD, R-O-A-D. SARATOGA. 95070.
17 Q. AND YOU HAVE A RESIDENCE PHONE NUMBER?
18 A. 408, 741, 8004.
19 Q. WHAT IS YOUR CURRENT BUSINESS ADDRESS?

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20 A. I USE THE HOME PRIMARILY.

21 Q. SO YOU HAVE NO OTHER PLACE OF BUSINESS OTHER
22 THAN YOUR HOME ADDRESS?

23 A. CORRECT.

24 Q. OKAY. DO YOU HAVE A BUSINESS PHONE NUMBER?

25 A. I USE 415, 710, 2700.
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 6

1 Q. IS THAT DIFFERENT FROM YOUR CELL PHONE?

2 A. NO THAT IT IS.

3 Q. SO THAT IS YOUR CELL AND BUSINESS PHONE NUMBER?

4 A. I USE THAT AS MY PRIMARY BUSINESS CONTACT.

5 Q. AND THEN DO YOU HAVE A FAX NUMBER?

6 A. 845, 839, 8456.

7 Q. OKAY.

8 A. YOU WANT MY EMAIL ADDRESS?

9 Q. YEAH. LET'S CONFIRM?

10 A. SACINELLI AT PRESTWICKPARTNERS, WHICH
11 P-R-E-S-T-W-I-C-K, PARTNERS DOT-COM.

12 MS. ANASTASSIOU: OKAY. LET'S MARK THIS AS THE
13 FIRST EXHIBIT HERE.

14 (EXHIBIT SC-1 MARKED.)

15 MS. ANASTASSIOU: SO I AM HANDING THE WITNESS A
16 DOCUMENT THAT WE HAVE MARKED AS SC-1. SC-1. AND IT'S
17 CALLED DID NOTICE OF TAKING DEPOSITION OF DEFENDANT
18 STEVE CINELLI AND REQUEST FOR PRODUCTION OF DOCUMENTS.
19 AND IT IS A DOCUMENT THAT'S APPROXIMATELY 11 PAGES. IF
20 YOU CAN TAKE A LOOK AT THAT DOCUMENT, SIR, AND LET ME
21 KNOW WHEN YOU ARE READY FOR QUESTIONS.

22 THE WITNESS: OKAY.

23 BY MS. ANASTASSIOU:

24 Q. OKAY. THIS DOCUMENT THAT'S MARKED SC NO. 1
25 INDICATES IT WAS SERVED ON YOU BY BOTH MAIL AND EMAIL TO
Page 5

□ Rough Draft - 7

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1 THE ADDRESSES YOU HAVE IDENTIFIED ON FEBRUARY 20TH, 2008
2 BY MY SECRETARY. YOU DID RECEIVE THIS DEPO NOTICE PRIOR
3 TO TODAY; IS THAT CORRECT?

4 A. CORRECT.

5 Q. AND THERE ARE A NUMBER OF DOCUMENTS HERE THAT
6 ARE REFERENCED THAT YOU ARE TO BRING TO YOUR DEPOSITION.
7 DID YOU GO THROUGH THE DOCUMENT REQUESTS WHICH LISTED --

8 A. TWO THINGS, THE PREPONDERANCE OF THE DOCUMENTS
9 LIE ON THE COMPANY SERVER, COMPUTER SERVER, AND AS PART
10 OF THE ENTIRE WIND DOWN OF THE BUSINESS, AN OUTSIDE
11 CONSULTANT HAS DOWNLOADED THE PREPONDERANCE, WELL, THE
12 CONTENT OF THE SERVER ONTO A DISK. I HAVE NOT RECEIVED
13 THAT IS OF YET.

14 Q. WHEN ARE YOU ANTICIPATING THAT YOU ARE GOING TO
15 GET THAT DISK?

16 A. I'M -- ANY TIME. THE CHALLENGE IS THAT IT'S ON
17 A PARTICULAR SOFTWARE PROGRAM WHICH WE DON'T HAVE, SO
18 THEY'VE GOT TO OBTAIN A NEW COPY OF THE SOFTWARE
19 PACKAGE TO BASICALLY RETRIEVE THE PREPONDERANCE,
20 PARTICULARLY THE FINANCIAL RECORDS.

21 Q. WHO IS THE CONSULTANT THAT IS WORKING ON --

22 A. RUSSELL BURBANK. I BELIEVE YOU SPOKE TO HIM
23 YESTERDAY.

24 Q. SO HE'S THE ONE THAT IS DOWNLOADING THE
25 DOCUMENTS?

□ Rough Draft - 8

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1 A. THAT'S CORRECT.

2 Q. AND --

3 A. SOME OF THE CORPORATION DOCUMENTS I HAVE
4 REQUESTED COPIES FROM THE ATTORNEYS WE USED IN THE

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5 ORIGINAL TRANSACTION.

6 Q. OKAY. SO LET'S JUST GO -- SO SOME OF THEM ARE
7 BEING DOWNLOADED FROM THE SERVER BY RUSSELL BURBANK,
8 WHEN DO YOU ANTICIPATE YOU ARE GOING TO GET --

9 A. I BELIEVE HE HAS IT ON DISK I HAVE NOT RECEIVED
10 THE DISK FROM HIM. BUT THE DISK, UNLESS WE HAVE THE
11 APPROPRIATE SOFTWARE IS BASICALLY UNREADABLE. SO
12 RUSSELL IS ATTEMPTING TO OBTAIN A COPY OF THE SOFTWARE
13 WHEREBY THE CONTENT OF WHAT WAS ON THE SERVER IS
14 READABLE.

15 Q. WHAT'S THIS SOFTWARE THAT YOU NEED?

16 A. FAMOUS. I BELIEVE IT'S A STANDARD IN THIS
17 INDUSTRY.

18 Q. OKAY. AND THEN YOU SAID SECOND THERE WERE
19 DOCUMENTS THAT WITH WITH ATTORNEYS?

20 A. THAT'S CORRECT.

21 Q. WHO ARE THE ATTORNEYS?

22 A. BAKER AND MCKENZIE.

23 Q. AND WHAT PARTICULAR ATTORNEY AND FROM WHAT
24 LOCATION OF BAKER & MCKENZIE?

25 A. THE PARTNER IN CHARGE WAS MARIA SENDRA.
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 9

1 Q. SPELL?

2 A. S-E-N-D-R-A. SHE RUNS THE CORPORATE SECURITY
3 PRACTICE FOR SOUTHERN CALIFORNIA.

4 Q. WHERE IS HER OFFICE?

5 A. IN SAN DIEGO.

6 Q. DO YOU KNOW THE ADDRESS?

7 A. NO, NOT OFF THE TOP. IN FACT,, I MAY. I LEFT
8 MY BLACKBERRY IN THE CAR. THAT I CAN RETRIEVE THAT FOR
9 YOU.

10 Q. MAYBE ON A BREAK IF YOU WOULD GO GET BLACK
Page 7

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11 BERRY. WHEN IS SHE GOING TO GET YOU A COPY OF THOSE
12 CORPORATE?

13 A. HOPEFULLY MOMENTARILY.

14 Q. LIKE WITHIN THE NEXT DAY OR SO?

15 A. UH-HUH.

16 Q. AND?

17 A. AND I'VE GOT SOME COPIES, BUT WHAT I WANTED TO
18 DO IS PUT EVERYTHING TOGETHER IN ONE PACKAGE.

19 Q. SO YOU HAVE SOME PERSONAL COPIES AT HOME?

20 A. YES, OF SOME OF THE DOCUMENTS REQUESTED HERE.

21 Q. BUT YOU HAVEN'T PUT THEM ALL TOGETHER?

22 A. NO, I WAS HOPING TO PULL EVERYTHING, PRIMARILY
23 THE FINANCIAL RECORDS WHICH BURBANK HAS, BUT YOU SOME OF
24 THE OTHER DOCUMENTS SUCH AS THE TRANSACTION DOCUMENTS,
25 GOURMET VEG-PAQ I'VE GOT CERTAIN COPIES OF THOSE.
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1 CERTAINLY THE BAKER & MCKENZIE HAS THE BYLAWS, THEY HAVE
2 THE ALL THE CHARTER DOCUMENTS. I DO HAVE THAT I JUST
3 RECEIVED COPIES OF THE CHECKING ACCOUNT STATEMENTS. BUT
4 ALL THE FINANCIAL RECORDS LIE ON THAT SOFTWARE PROGRAM.

5 Q. OKAY WELL AT THE END OF THE DEPOSITION WE WILL
6 TALK ABOUT WHEN YOU MIGHT GET THOSE RECORDS, BECAUSE WE
7 WILL NEED TO RESCHEDULE ANOTHER DEPO TO GO THROUGH ALL
8 THOSE WITH YOU.

9 AND OTHER THAN RECORDS THAT YOU HAVE AT HOME,
10 RECORDS AT BAKER & MCKENZIE, AND RECORDS THAT BURBANK IS
11 GOING TO GATHER, WHERE ARE THE OTHER CORPORATE RECORDS
12 RELATING TO FRESH 'N HEALTHY?

13 A. SUCH AS?

14 Q. SUCH AS THE ORDINARY TRANSACTIONS THAT THEY
15 HAD, I MEAN THAT KEPT AT THE BUSINESS OFFICE WHERE DID

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16 THOSE RECORDS GO?

17 A. I WOULD ANTICIPATE THEY WOULD ALL BE ON THE
18 SERVER.

19 Q. BUT COULDN'T THERE BE PAPER FILES THAT THEY
20 WOULD ALSO HAVE AT THE CORPORATE OFFICE?

21 A. BURBANK HAS ALL THOSE. HE'S GOT BOXES OF
22 DOCUMENTS.

23 Q. SO RUSSELL BURBANK HAS ALL THE CORPORATE --

24 A. YES.

25 Q. -- DOCUMENTS?

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1 A. HE PULLED THE CORPORATE DOCUMENTS SUCH AS
2 INVOICES, SUCH AS PAYABLE LISTINGS, SUCH AS GENERAL
3 LEDGERS, OUT OF THE CORPORATE OFFICE I GUESS A COUPLE OF
4 WEEKS AGO AND THEY ARE IN BOXES AND I BELIEVE THEY ARE
5 IN BURBANK'S POSSESSION.

6 Q. OKAY. ANY OTHER PLACE THAT YOU KNOW OF WHERE
7 THERE IS CORPORATE RECORDS?

8 A. THE ONLY OTHER PLACE MIGHT BE AT THE LAW OFFICE
9 OF MURRAY AND MURRAY WHO IS HANDLING THE WIND DOWN OF
10 THE COMPANY.

11 Q. WAS MURRAY & MURRAY RETAINED BY FRESH 'N
12 HEALTHY?

13 A. IT WAS SUGGESTED BY THE BANK TO RETAIN MURRAY &
14 MURRAY. BUT THE COMPANY IS ACTUALLY PAYING MURRAY &
15 MURRAY, THE SAME THING WITH BURBANK, THE BANK ASKED TO
16 GET BURBANK OR AN ALTERNATIVE INTO THE SITUATION OF
17 WHICH THE COMPANY PAYS BURBANK BUT IT'S REALLY UNDER THE
18 ORCHESTRATION OF THE BANK.

19 Q. WHERE IS THE COMPANY GETTING THE FUNDS TO PAY
20 THE LAW FIRM AND RUSSELL BURBANK?

21 A. LARGELY FROM THE COLLECTION OF RECEIVABLES
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22 WHICH HAVE BEEN ESSENTIALLY ASSIGNED TO THE BANK.

23 Q. SO ARE YOU AWARE THAT THERE WAS AN INJUNCTION

24 IN PLACE PURSUANT TO A NORTHERN DISTRICT COURT ORDER

25 REQUIRING ALL THE RECEIVABLES TO GO INTO AN ACCOUNT?
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1 A. STEVE O'NEILL WHO REPRESENTS, WHO IS

2 REPRESENTING THE COMPANY AT MURRAY & MURRAY, HE'S BEEN

3 IN -- I WOULD IMAGINE HE AND THE BANK ARE AWARE OF THAT.

4 THAT'S AN ASSUMPTION ON MY PART.

5 Q. ARE YOU PERSONALLY AWARE OF THE INJUNCTION?

6 A. I CAN'T SAY THAT I AM.

7 Q. OKAY. WE WILL TALK ABOUT THAT LATER.

8 A. AS YOU KNOW THERE HAS JUST BEEN A FLOOD OF
9 LEGAL DOCUMENTS.

10 Q. OKAY. SO THEN I THINK WE HAVE GONE THROUGH, SO

11 THERE IS DOCUMENTS WITH RUSSELL BURBANK, DOCUMENTS WITH

12 BAKER & MCKENZIE SOME PERSONAL DOCUMENTS THAT YOU HAVE

13 AT HOME, AND DOCUMENTS AT THE LAW OFFICES OF MURRAY &

14 MURRAY. AND WHO IS THE PERSON --

15 A. STEVEN O'NEILL.

16 Q. STEVEN O'NEILL THAT WOULD HAVE THE DOCUMENTS.

17 ANY OTHER PLACE WHERE CORPORATE DOCUMENTS --

18 A. I DON'T BELIEVE SO.

19 Q. I'D LIKE TO GO BACK INTO SOME BACKGROUND

20 INFORMATION ABOUT YOURSELF.

21 A. SURE.

22 Q. WHEN DID YOU GRADUATE FROM HIGH SCHOOL?

23 A. 1974.

24 Q. AND WHAT HIGH SCHOOL DID YOU ATTEND?

25 A. SAINT IGNATIUS IN SAN FRANCISCO.
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1 Cinelli.ROUGH~1.TXT
2 Q. COULD YOU SPELL THAT?

3 A. SAINT I-G-N-A-T-I-U-S.

4 Q. AND AFTER YOU GRADUATED FROM SAINT IGNATIUS,
5 DID YOU ATTEND COLLEGE?

6 A. YES, SANTA CLARA UNIVERSITY.

7 Q. AND DID YOU GET A DEGREE FROM SANTA CLARA?

8 A. THAT'S CORRECT.

9 Q. WHEN DID YOU GET THAT?

10 A. 1978.

11 Q. WHAT WAS THE DEGREE IN?

12 A. ECONOMICS AND MARKETING.

13 Q. AND AFTER YOU GOT WAS THAT A BA OR BS?

14 A. IT'S CALLED A BS. BACHELOR OF SCIENCE IN
15 COMMERCE.

16 Q. AND AFTER YOU GOT YOUR BS DID YOU GO ON GET A
17 GRADUATE DEGREE?

18 A. I ENDED UP GETTING A MASTER'S IN INTERNATIONAL
19 FINANCE WITH GOLDEN GATE UNIVERSITY IN SAN FRANCISCO.

20 Q. AND WHEN DID YOU GET THAT?

21 A. 1980.

22 Q. ANY OTHER COLLEGE DEGREES THAT YOU GOT?

23 A. NOT DEGREES, I DID SOME EDUCATION OVER AT
24 BERKELEY, UC-BERKELEY.

25 Q. IN WHAT AREA?

A. ECONOMICS.

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NONCERTIFIED ROUGH DRAFT

1 Q. WHEN DID YOU ATTEND UC-BERKELEY?

2 A. '82, '83 IT WAS SOME EXTENSION COURSES.

3 Q. ANY OTHER COLLEGE EDUCATION THAT YOU HAVE HAD?

4 A. NO.

5 Q. AND SINCE YOU GOT YOUR MASTER'S IN FINANCE AT
6 GOLDEN GATE UNIVERSITY, COULD YOU DESCRIBE YOUR

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7 POSITIONS OF EMPLOYMENT?

8 A. I BEGAN MY CAREER WITH BANK OF AMERICA IN THEIR
9 MANAGEMENT TRAINING PROGRAM.

10 Q. WAS THAT IN SAN FRANCISCO?

11 A. CORRECT.

12 Q. AND HOW LONG DID YOU WORK FOR THEM?

13 A. FROM 1978 THROUGH 1984.

14 Q. AND WHAT WAS YOUR POSITION WHEN YOU LEFT BANK
15 OF AMERICA?

16 A. I WAS A VICE PRESIDENT IN THEIR TECHNOLOGY BANK
17 GROUP.

18 Q. AND AFTER THAT POSITION WHAT WAS YOUR NEXT
19 POSITION?

20 A. I WAS RECRUITED AWAY BY SECURITY PACIFIC BANK.
21 AND BECAME A VICE PRESIDENT IN THEIR MERCHANT BANKING
22 GROUP.

23 Q. WAS THAT ALSO IN SAN FRANCISCO?

24 A. THAT'S CORRECT.

25 Q. HOW LONG DID YOU WORK THERE?
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 15

1 A. UNTIL I BELIEVE 1990.

2 Q. SO THAT WAS 1984 TO 1990?

3 A. CORRECT.

4 Q. AND THEN WHAT WAS YOUR NEXT POSITION OF
5 EMPLOYMENT?

6 A. THEN I JOINED A PRIVATE EQUITY FIRM BY THE NAME
7 OF THE KNIGHTSBRIDGE PARTNERS.

8 Q. SPELL THAT?

9 A. K-N-I-G-H-T-S-B-R-I-D-G-E PARTNERS.

10 Q. WHERE WAS THAT LOCATED?

11 A. HOME BASE WAS CHICAGO, BUT THE OFFICE OUT WEST

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12 COAST WAS IN SAN RAFAEL, CALIFORNIA.

13 Q. WHAT WAS YOUR POSITION WITH THEM?

14 A. PRINCIPAL.

15 Q. WHAT WAS YOUR DUTIES AND RESPONSIBILITIES WITH
16 KNIGHTSBRIDGE PARTNERS?

17 A. IT WAS A LEVERAGE BUYOUT FIRM TO LOOK FOR NEW
18 OPPORTUNITIES AND I SAT ON A SERIES OF BOARDS OF
19 COMPANIES THAT HAD BEEN ACQUIRED BY KNIGHTSBRIDGE.

20 Q. AND HOW LONG DID YOU WORK FOR KNIGHTSBRIDGE
21 PARTNERS?

22 A. I THINK ABOUT THREE YEARS.

23 Q. SO 1990 TO 1993?

24 A. CORRECT.

25 Q. THEN WHAT DID DO YOU AFTER THAT?
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 16

1 A. BEGAN DOING INDEPENDENT ADVISORY ASSIGNMENTS.

2 Q. DID YOU HAVE A CONSULTING FIRM?

3 A. PRESTWICK PARTNERS I SET UP IN 1992. AND
4 THAT'S PRESTWICK PARTNERS, INC..

5 Q. AND IS IT PRESTWICK PARTNERS NOW THAT YOU AN
6 LLC OR INC.?

7 A. LLC WHILE IT WAS CREATED IT WAS NEVER AN
8 OPERATING ENTITY. WE WERE AT ONE TIME LOOKING AT THAT
9 TO HOLD INVESTMENT SECURITIES BUT WE NEVER DID.

10 Q. THE LLC?

11 A. THAT'S CORRECT. SO LLC DOES NOT EXIST.

12 Q. THE LLC DOES NOT EXIST?

13 A. CORRECT.

14 Q. AND SO PRESTWICK PARTNERS INC. YOU SAY WAS
15 FORMED IN 1992?

16 A. THAT'S CORRECT.

17 Q. AND WHO IS THE OWNERS PRESTWICK PARTNERS, INC.?

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18 A. MYSELF PERSONALLY.

19 Q. SO IT'S JUST --

20 A. CORRECT.

21 Q. -- A SOLE --

22 A. CORRECT.

23 Q. -- PROPRIETORSHIP SO THE SPEAK?

24 A. CORRECT.

25 Q. OKAY. AND THAT IS STILL OPERATING TODAY?
NONCERTIFIED ROUGH DRAFT

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1 A. THAT'S CORRECT.

2 Q. AND WHERE IS THE OFFICES FOR PRESTWICK PARTNERS
3 INC.?

4 A. CURRENTLY JUST AT MY HOME. ANY ADVISORY WORK
5 OR INVESTMENTS I MAKE I MAKE THROUGH PRESTWICK PARTNERS.

6 Q. SO YOU STARTED PRESTWICK PARTNERS IN 1992 AND
7 THAT CONTINUES TO 2008, TO TODAY RIGHT?

8 A. YES. IN THE MEANTIME I'VE STARTED A COUPLE OF
9 COMPANIES INDEPENDENTLY.

10 Q. OKAY. AND SO OTHER THAN PRESTWICK PARTNERS,
11 WHAT OTHER --

12 A. I WAS A FOUNDER TKOER OF A COMPANY BY THE NAME
13 OFFROAD CAPITAL.

14 Q. SPELL THAT?

15 A. O-F-F-R-O-A-D. CAPITAL. AND THAT WAS FORMED
16 IN 1999. THROUGH I BELIEVE 2002.

17 Q. AND WHAT WAS THE BUSINESS OF OFFROAD CAPITAL?

18 A. WE HAD DESIGNED AN INTERNET BASED CAPITAL
19 MARKET SYSTEM FOR PRIVATE SECURITIES. OF WHICH I'M A
20 HOLDER OF THE PATENT.

21 Q. SO THERE WAS A PATENT, AND THEN WAS --

22 A. I DON'T KNOW IF THE PATENT WAS EVER FINALIZED.

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23 YOU CAN STILL PULL UP THE PATENT AND FIND IT ON THE WEB.

24 Q. THERE IS A PATENT, AND DID OFFROAD CAPITAL DO

25 ANY BUSINESS OTHER THAN CREATING THE PATENT?

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1 A. YEAH, OFFROAD, WE RAN THE COMPANY FROM TWO OF

2 US TO ABOUT 250 PEOPLE. I WAS THE FOUNDER THAT WAS

3 OUSTED BECAUSE OF DIFFERENT STRATEGY. THE COMPANY HAD

4 RAISED ABOUT \$80 MILLION IN CAPITAL. AND THEY TOOK IT

5 IN THE DIRECTION WHICH WAS ILL-ADVISED ENDED UP SELLING

6 IT FOR A SMALL AMOUNT OF MONEY.

7 Q. WHEN WERE YOU OUSTED IN 2002?

8 A. EARLY PART OF THE YEAR.

9 Q. OF 2002?

10 A. YES.

11 Q. AND DOES THAT COMPANY STILL EXIT?

12 A. VESTIGES OF IT BACK IN NEW YORK BY THE COMPANY

13 IT WAS ACQUIRED BY.

14 Q. DOES IT STILL EXIST UNDER THE NAME OF OFFROAD

15 CAPITAL?

16 A. I BELIEVE SO.

17 Q. AND THAT WAS A NEW YORK BASED COMPANY?

18 A. NEW YORK BASED COMPANY BY THE NAME OF NEW YORK

19 PRIVATE PLACEMENT EXCHANGE ACQUIRED THE ASSETS.

20 Q. AND YOU SAID IT RAMPED UP TO \$80 MILLION?

21 A. NO. \$80 MILLION OF CAPITAL WAS RAISED INTO

22 OFFROAD CAPITAL BY SOME OF THE LEADING VENTURE CAPITAL

23 FIRMS.

24 Q. WHAT DID THEY DO WITH THAT 80 MILLION OF

25 CAPITAL.

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1 A. THEY BUILT THE BUSINESS.

2 Q. DOING WHAT?

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3 A. BUILDING A TECHNOLOGY PLATFORM, CREATING A
4 SALES FORCE, CREATING AN INVESTMENT GROUP.

5 Q. WHAT DID THEY SELL?

6 A. IT WAS A MARKETPLACE SUCH AS A STOCK EXCHANGE
7 FOR THE BUYING AND SELLING OF UNREGISTERED SECURITIES.

8 Q. DOES THAT MARKETPLACE STILL EXIST?

9 A. NO.

10 Q. AND YOU SAID THAT VESTIGES OF OFFROAD CAPITAL
11 STILL EXIST AND WHAT IS THAT ENTITY DOING NOW?

12 A. IT IS I BELIEVE SELLING SECURITIES UNDER THE
13 OFFROAD CAPITAL NAME.

14 Q. AS A BROKER?

15 A. YES.

16 Q. AS A REGISTERED BROKER?

17 A. YES.

18 Q. AND WAS THIS OFFROAD CAPITAL, WAS IT EVER
19 LISTED THE --

20 A. NO.

21 Q. -- ON EXCHANGE OR ANYTHING?

22 A. NO.

23 Q. AND THEN AFTER YOU LEFT OFFROAD CAPITAL WHAT
24 WAS YOUR NEXT VENTURE?

25 A. I WENT BACK INTO PRIVATE ADVISORY WORK WITH A
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Rough Draft - 20

1 SERIES OF SMALL PRIVATE COMPANIES.

2 Q. WHEN YOU SAY PRIVATE ADVISORY WORK, WHAT DO YOU
3 MEAN BY THAT?

4 A. DOING A COMBINATION OF STRATEGIC PLANNING,
5 CORPORATE DEVELOPMENT AND INVESTMENT BANKING.

6 Q. WHO WERE YOUR CLIENTS?

7 A. TYPICALLY EARLY STAGE TECHNOLOGY COMPANIES.

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8 Q. AND THAT'S WHAT PRESTWICK PARTNERS HAS BEEN
9 INVOLVED WITH FROM ITS --

10 A. CORRECT.

11 Q. -- INCEPTION?

12 A. INCEPTION, THAT'S CORRECT.

13 Q. HAVE THEY BEEN MOSTLY SILICON VALLEY COMPANIES?

14 A. PREPONDERANTLY, YES.

15 Q. AND CAN YOU NAME ANY OF THE COMPANIES THAT YOU
16 DID WORK FOR?

17 A. LET'S SEE. SOME WERE SILICON VALLEY COMPANIES,
18 TECHNOLOGY BASE, THERE WAS COMPANY ORCO WHICH WAS A
19 BUILDING SUPPLIER, MOKA PAY, WHICH IS A MOBILE PAYMENT
20 SERVICE. CHINA BLUE, WHICH WAS A FOOD COMPANY. LA
21 PETITE BOULANGERIE, WHICH IS A RESTAURANT CHAIN. CARR
22 GOTTSTEIN FOOD WHICH WAS A GROCERY CHAIN BY WHICH I MET
23 MARK WILLIAMS. SAVE MART MARKET WHICH WAS A GROCERY
24 CHAIN. THERE IS PROBABLY HALF A DOZEN OTHERS. I CAN'T
25 RECALL.

□ Rough Draft - 21

NONCERTIFIED ROUGH DRAFT

1 Q. WHAT WERE TECHNOLOGY COMPANIES YOU SAID YOU
2 WERE WORKING FOR?

3 A. MOKA PAY IS A TECHNOLOGY COMPANY. SO MOBILE
4 PAYMENTS. CURRENTLY THERE IS A COMPANY Z DEGREE
5 INTERACTIVE WHICH IS ASOCIAL NETWORKING COMPANY. LET'S
6 SEE, WHAT ELSE IS -- ACTIVA WHICH IS AN ONLINE
7 REGISTRATION AND PAYMENT BUSINESS.

8 Q. HAVE YOU EVER HAD OFFICES FOR PRESTWICK
9 PARTNERS?

10 A. YES.

11 Q. WHERE WERE THE OFFICES BEEN LOCATED?

12 A. BOTH IN SAN FRANCISCO AND PALO ALTO.

13 Q. DID YOU EVER HAVE ANY EMPLOYEES WORKING FOR
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14 YOU?

15 A. TEMPORARIES. AND THE TEMPORARIES WOULD BE
16 SECRETARIAL SERVICES.

17 Q. SO YOU NEVER HAD ANY OTHER BUSINESS EXECUTIVES
18 OR ANYTHING LIKE THAT --

19 A. NO.

20 Q. -- WORKING FOR YOU?

21 A. NO. UNDER OFFROAD I DID.

22 Q. UNDER OFFROAD BUT NOT AT --

23 A. NOT AT PRESTWICK.

24 Q. WHERE WERE YOUR OFFICES LOCATED IN SAN

25 FRANCISCO FOR PRESTWICK?

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NONCERTIFIED ROUGH DRAFT

1 A. DOWN ON -- THERE WERE A COUPLE OF OFFICES, ONE
2 OF WHICH WAS 50 CALIFORNIA STREET, AND IN PALO ALTO, IT
3 WAS, I CAN'T REMEMBER THE NUMBER, HILLVIEW AVENUE.

4 Q. WAS THAT A SOLE OFFICE OR DID YOU SHARE?

5 A. I SHARED OFFICE SPACE.

6 Q. OKAY. AND AT 50 CALIFORNIA?

7 A. I SHARED OFFICE SPACE.

8 Q. WITH WHO?

9 A. I SUBLET FROM, WHO WAS THE FIRM, IT WAS ANOTHER
10 BANKING FIRM, I'LL REMEMBER IT.

11 Q. IN PALO ALTO?

12 A. SHARED OFFICES WITH GARAGE DOT-COM OR GARAGE
13 TECHNOLOGY VENTURES.

14 Q. WHEN DID YOU HAVE THE OFFICE IN SAN FRANCISCO
15 APPROXIMATELY?

16 A. PROBABLY, OH, '94 THROUGH '96, '97.

17 Q. WHAT ABOUT THE OFFICE IN PALO ALTO?

18 A. 2005, 2006.

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19 Q. OKAY. AND THEN OTHER THAN THESE OPERATIONS
20 WITH PRESTWICK PARTNERS, HAVE YOU HAD ANY OTHER
21 INVOLVEMENT IN BUSINESSES PRIOR TO FRESH 'N HEALTHY?

22 A. I BELIEVE I JUST ILLUSTRATED THE BUSINESSES
23 I'VE HAD.

24 Q. RIGHT. HAVE YOU HAD ANYTHING ELSE? I MEAN YOU
25 HAD INDICATED THAT I GUESS YOU HAD WORKED FOR OFFROAD
NONCERTIFIED ROUGH DRAFT

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1 CAPITAL?

2 A. YES.

3 Q. AND THEN THAT WAS TERMINATED IN WHAT DID YOU
4 SAY, '92?

5 A. 2002.

6 Q. SO YOU WERE OFFROAD CAPITAL FROM 1999 TO 2002?

7 A. CORRECT.

8 Q. AND THEN AFTER THAT YOU SAID YOU WENT BACK TO
9 JUST DOING MAINLY PRESTWICK PARTNERS. AND I'M JUST
10 ASKING IS THERE ANYTHING ELSE --

11 A. NO.

12 Q. -- OTHER THAN PRESTWICK PARTNERS --

13 A. NO.

14 Q. -- THAT YOU'VE DONE SINCE THAT TIME?

15 A. NO.

16 Q. AND SO HOW DID YOU COME TO GET INVOLVED IN THE
17 COMPANY KNOWN AS FRESH 'N HEALTHY?

18 A. A FELLOW BANKER FROM NEW YORK HAD CALLED ME
19 REGARDING SOME FOOD SAFETY OR ACTUALLY FOOD TECHNOLOGY.

20 Q. WHAT'S THE NAME OF THE BANKER?

21 A. LARRY KNUTSON.

22 Q. CAN YOU SPELL HIS NAME?

23 A. K-N-U-T-S-O-N.

24 Q. AND HE IS AN INVESTMENT BANKER?

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25 A. YES.
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1 Q. AND HE CALLED YOU ABOUT SOME FOOD SAFETY
2 TECHNOLOGY?

3 A. UH-HUH. WHICH WAS PARTIALLY DEVELOPED ON THE
4 WEST COAST AND THROUGH LARRY I WAS INTRODUCED TO JACK
5 PARSON.

6 Q. WHEN DID YOU FIRST MEET JACK PARSON?

7 A. IT HAD TO BE PROBABLY JANUARY 2006.

8 Q. HOW DID THAT INTRODUCTION TO JACK PARSON LEAD
9 TO YOUR INVOLVEMENT IN FRESH 'N HEALTHY?

10 A. JACK PARSONS WAS A PARTNER IN A FIRM BY THE
11 NAME OF PREMIUM FRESH FARMS.

12 Q. YES?

13 A. AS PART OF THE CONVERSATION WITH PARSONS, HE
14 AND HIS PARTNER, EMMETT POST, WERE HAVING DIFFICULTIES
15 WITH THE OTHER SHAREHOLDERS OF PREMIUM FRESH FARMS, AND
16 ASKED IF I WOULD INTERCEDE AND ASSIST PARSONS AND POST
17 DO ACQUIRE THE OTHER 50 PERCENT OF PREMIUM FRESH FARMS.

18 Q. AND DID YOU DO THAT?

19 A. I DID NOT. I DID INSTIGATE A CONVERSATION, DID
20 PUT TOGETHER A SERIES OF PROPOSALS, TRYING TO
21 FINANCIALLY ENGINEER A TRANSACTION.

22 Q. AND THEN WHAT HAPPENED?

23 A. BOTH SIDES DECIDED TO CONTINUE TO PLAY
24 TOGETHER, IT WAS OBVIOUS THEY NEEDED SOME MANAGEMENT
25 ASSISTANCE, AND AT THAT TIME I HAD CALLED MARK WILLIAMS,
[Rough Draft - 25 NONCERTIFIED ROUGH DRAFT

1 WHO HAD SINCE RETIRED, TO SEE IF HE WAS INTERESTED IN
2 GETTING INVOLVED IN PREMIUM FRESH FARMS. HE CAME IN AS
3 A CONSULTANT. HIRED BY PREMIUM FRESH. THAT LED TO A

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4 REVIEW OF THE MARKET THAT PREMIUM FRESH CONDUCTED THEIR
5 BUSINESS NAMELY THE PACKAGED GREENS BUSINESS, LETTUCE,
6 SPINACH, SPRING MIX. THROUGH 2006 TIME FRAME, WE LOOKED
7 AT A SERIES OF OTHER COMPANIES WITH THE OBJECTIVE OF
8 PUTTING TOGETHER A CONSOLIDATION STRATEGY.

9 Q. AND YOU ARE SAYING WE, IS THAT --

10 A. MARK WILLIAMS AND I.

11 Q. AND PREMIUM FRESH FARMS OR NO?

12 A. PREMIUM FRESH WAS GOING TO BE PART OF THE
13 CONSOLIDATION STRATEGY. THE FIRST PIECE.

14 Q. AND THEN --

15 A. WHEN WE -- FRESH 'N HEALTHY WAS SET UP AS THE
16 DESIGNATED ACQUIRER OF PREMIUM.

17 Q. WAS THAT FRESH 'N HEALTHY INC. OR FRESH 'N
18 HEALTHY LLC?

19 A. INC..

20 Q. WHAT ABOUT FRESH 'N HEALTHY LLC THAT'S
21 LISTED --

22 A. I DON'T KNOW WHAT THAT IS.

23 Q. JACK PARSON IS LISTED AS THE REGISTERED OWNER
24 OF THAT?

25 A. HE MAY HAVE SET THAT UP INDEPENDENTLY. I HAVE
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1 NO IDEA WHAT THAT IS.

2 Q. SO YOU'VE NEVER BEEN INVOLVED WITH FRESH 'N
3 HEALTHY LLC?

4 A. THAT'S CORRECT.

5 Q. AND SO WHO SET UP FRESH 'N HEALTHY INC. THEN TO
6 BE AN ACQUIRING COMPANY?

7 A. BAKER & MCKENZIE.

8 Q. AND WHO WERE THE INITIAL SHAREHOLDERS OF FRESH
9 'N HEALTHY INC.?

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10 A. THERE WERE MYSELF, MARK WILLIAMS, JACK PARSON,
11 MARK MCCORMICK. TOM PAVICH. THERE WAS A LIST OF
12 PROBABLY ABOUT SIX OR SEVEN FOUNDERS.

13 Q. HOW WAS THAT CAPITALIZED?

14 A. DE MINIMUSLY. LARGELY IT WAS SWEAT EQUITY.

15 Q. WAS THERE ANY MONEY PUT INTO THE COMPANY WHEN
16 IT WAS FORMED BY THOSE --

17 A. LIMITED. PROBABLY TEN TO \$15,000 TO ADDRESS
18 LEGAL BILLS. BUT IT WAS ESSENTIALLY A SHELL COMPANY AT
19 THE TIME.

20 Q. SO IT WAS TEN TO \$15,000 PUT IN INITIALLY INTO
21 THE COMPANY. AND DID EACH PERSON CONTRIBUTE PRO RATA
22 OR --

23 A. NO, I BELIEVE I FUNDED IT. AND THEN AGAIN IT
24 WAS BASICALLY EXPENSES.

25 Q. WHAT WAS THE INITIAL GOAL OF FRESH 'N HEALTHY,
NONCERTIFIED ROUGH DRAFT

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1 INC?

2 A. TO SERVE AS THE ACQUIRER OF NOT ONLY PREMIUM
3 FRESH FARMS BUT WE HAD IDENTIFIED THROUGH JACK PARSON
4 GOURMET VEG-PAQ. AND THE ORIGINAL INTENTION WAS TO
5 ACQUIRE BOTH PREMIUM FRESH FARMS AND GOURMET VEG-PAQ
6 UNDER FRESH 'N HEALTHY, INC. WE LOOKED AT A SERIES OF
7 OTHER COMPANIES TO DO THE SAME THING. THE CHALLENGE WAS
8 IN THE CONSOLIDATION OF THE TWO AND TRYING TO FINANCE
9 THE TWO ACQUISITIONS SIMULTANEOUSLY WAS THAT PREMIUM
10 FRESH FARMS' FINANCIAL PROGRESSION WAS DESPERATELY WEAK.
11 GOURMET VEG-PAQ WAS A HEALTHY BUSINESS. AND THE
12 DIFFICULTY WITH PREMIUM FRESH MADE THE FINANCING
13 DIFFICULT TO COME BY. SO IN THE FALL OF 2006, I MADE A
14 DECISION JUST TO ACQUIRE GOURMET VEG-PAQ, LEAVING

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15 PREMIUM FRESH FARMS OUT OF THE PICTURE.

16 Q. AND YOU SAID THAT JACK PARSON WAS INVOLVED IN
17 PREMIUM FRESH?

18 A. THAT'S CORRECT.

19 Q. DID HE STAY INVOLVED IN PREMIUM FRESH?

20 A. I BELIEVE SO. I THINK HE WAS WEARING TWO HATS.

21 Q. SO HE STAYED INVOLVED IN PREMIUM FRESH AND YOU
22 SAID WILLIAMS WAS WORKING AS A CONSULTANT FOR THEM?

23 A. THAT'S CORRECT.

24 Q. AND THEN DID HE TERMINATE THAT CONSULTING
25 ARRANGEMENT?

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NONCERTIFIED ROUGH DRAFT

1 A. HE DID, HE DID.

2 Q. WERE YOU WORKING AS A CONSULTANT FOR THEM ALSO?

3 A. NO.

4 Q. ONLY WILLIAMS?

5 A. YEAH. I RECEIVED AS PART OF MY ATTEMPTS TO
6 FACILITATE THE ACQUISITION OF THE OTHER 50 PERCENT THAT
7 PARSON AND POST DID NOT OWN HE HAD GIVEN ME A MINORITY
8 POSITION IN THE LEGAL ENTITY THAT OWNED THEIR
9 50 PERCENT. SO INDIRECTLY, I BECAME A SHAREHOLDER OF
10 PREMIUM FRESH FARMS.

11 Q. DO YOU STILL HAVE THAT POSITION?

12 A. YES.

13 Q. AND THAT WAS GIVEN TO YOU BY JACK AND EMMETT?

14 A. THAT'S CORRECT.

15 Q. AND YOU SAID THAT YOU DECIDED TO ACQUIRE
16 GOURMET VEG-PAQ BECAUSE YOU FELT IT WAS IN GOOD
17 FINANCIAL CONDITION?

18 A. THAT'S CORRECT.

19 Q. AND WHAT WAS THE DILIGENCE THAT WAS DONE TO
20 DETERMINE THAT?

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21 A. REVIEW OF FINANCIAL DATA, REVIEW OF CUSTOMER
22 LISTS, WE HAD PARSON AND OTHER PARTIES WALK THROUGH THE
23 FARMS, LOOKING AT, YOU KNOW, CORPORATE RECORDS. LOOKING
24 AT TAX RETURNS. SPENDING A GOOD DEAL OF TIME WITH
25 GOURMET VEG-PAQ'S ACCOUNTANT TO UNDERSTAND THE FINANCIAL
NONCERTIFIED ROUGH DRAFT

1 POSITION AND THE OPERATIONS.

2 Q. WHO IS THEIR AACCOUNTANT?

3 A. CHUCK DOGLIONE.

4 Q. SPELL?

5 A. D-O-G-L-I-O-N-E.

6 Q. WAS HE AN OUTSIDE CPA OR --

7 A. YES, HE WAS. HIS FIRM IS KASAVAN AND POPE.

8 Q. HERE IN SALINAS?

9 A. THAT'S CORRECT.

10 Q. AND THEN DID YOU HAVE AN APPRAISAL DONE OF THE
11 GOURMET VEG-PAQ EQUIPMENT?

12 A. YES.

13 Q. WHO DID THE APPRAISAL?

14 A. I CAN'T RECALL, BUT IT WAS FACILITATED BY A
15 THIRD-PARTY AGENT THAT WAS ASSISTING IN THE
16 FUND-RAISING, AND THAT COMPANY WAS BLUE DIAMOND CAPITAL.

17 Q. WHERE ARE THEY LOCATED?

18 A. UP IN THE PACIFIC NORTHWEST.

19 Q. AND HOW DID IT COME TO BE THAT --

20 A. MAY I GET A LITTLE BIT MORE COFFEE?

21 MS. ANASTASSIOU: SURE. I SHOULD JUST TELL YOU
22 THE RULES OF A DEPOSITION. I FORGOT TO EXPLAIN THOSE TO
23 YOU, THAT YOU CAN ASK FOR A BREAK AT ANY TIME, AS CAN I
24 OR THE COURT REPORTER, AND SO WE CAN TAKE A BREAK RIGHT
25 NOW.

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1 (BREAK.)

2 BY MS. ANASTASSIOU:

3 Q. SO YOU SAID BLUE DIAMOND CAPITAL ARRANGED FOR
4 THE APPRAISAL OF THE GOURMET VEG-PAQ EQUIPMENT?

5 A. THAT'S CORRECT.

6 Q. AND WHEN WAS THAT APPRAISAL DONE?

7 A. I WOULD IMAGINE THE FALL OF '06.

8 Q. AND YOU SAID YOU WERE ALSO LOOKING AT PREMIUM
9 FRESH, DID THEY ALSO DO AN APPRAISAL OF --

10 A. YEAH, IT WAS DONE SIMULTANEOUSLY.

11 Q. THERE WERE TWO APPRAISALS DONE OR --

12 A. ONE APPRAISAL CONSOLIDATING BOTH EQUIPMENT
13 ASSETS.

14 Q. OF BOTH PREMIUM FRESH AND GOURMET VEG-PAQ?

15 A. THAT'S CORRECT.

16 Q. AND WHAT WAS BLUE DIAMOND CAPITAL'S ROLE YOU
17 SAID THEY HAD SOME INVOLVEMENT IN FINANCING?

18 A. YEAH, BUT THEY DIDN'T DO ANYTHING. I HELD SOME
19 DISCUSSIONS WITH THEM, THEY FACILITATED THE APPRAISAL,
20 BUT THEY WERE -- THEY DIDN'T ACCOMPLISH ANYTHING, SO WE
21 DIDN'T DO ANY BUSINESS TOGETHER.

22 Q. OTHER THAN THEY FACILITATED THE APPRAISAL?

23 A. THAT'S CORRECT.

24 Q. AND YOU DON'T REMEMBER WHO THE APPRAISER WAS?

25 A. I DO NOT.

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NONCERTIFIED ROUGH DRAFT

1 Q. AND THE ASSETS OF GOURMET VEG-PAQ THAT WERE
2 APPRAISED, WHERE WERE THEY LOCATED?

3 A. IN GILROY, HOLLISTER AND EL CENTRO.

4 Q. AND WAS THERE ALSO ANY REAL ESTATE THAT WAS
5 APPRAISED OR JUST EQUIPMENT?

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6 A. REAL ESTATE, THE EL CENTRO PLANT AS WELL AS THE
7 HOLLISTER PLANT.

8 Q. SO THOSE TWO FACILITIES WERE OWNED BY GOURMET
9 VEG-PAQ?

10 A. THAT'S CORRECT.

11 Q. AND WHY DON'T YOU JUST DESCRIBE, WHAT WAS IN
12 GILROY AT THE TIME YOU WERE LOOKING AT THIS ENTITY FOR
13 PURCHASE, GOURMET VEG-PAQ?

14 A. THERE WAS A LEASED OFFICE BUILDING, AND THEN
15 MISCELLANEOUS FARM EQUIPMENT.

16 Q. AND THAT OFFICE BUILDING WAS WHAT, A FARM
17 OFFICE OR A SALES OFFICE OR WHAT?

18 A. MR. MARTINEZ, THE OWNER OF GOURMET VEG-PAQ,
19 MAINTAINED HIS OFFICE THERE, AS WELL AS THE ACCOUNTING
20 DEPARTMENT.

21 Q. AND THEN YOU SAID THAT THERE WAS A FARM
22 EQUIPMENT YARD THERE?

23 A. YES.

24 Q. HOW BIG WAS THE OFFICE, FAIRLY SMALL?

25 A. YES.

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NONCERTIFIED ROUGH DRAFT

1 Q. LIKE HOW MANY SQUARE FEET APPROXIMATELY?

2 A. 8,000, 10,000.

3 Q. SQUARE FEET OF OFFICE SPACE?

4 A. YEAH, PROBABLY. MAYBE NOT THAT BIG, MAYBE
5 5,000. I'M NOT A GOOD JUDGE OF THAT.

6 Q. OKAY. AND THAT WAS A LEASED OFFICE BUILDING
7 AND WAS THAT OWNED BY MR. MARTINEZ PERSONALLY?

8 A. I BELIEVE IT WAS. I BELIEVE IT WAS.

9 Q. AND THEN IN HOLLISTER, WHAT WAS IN HOLLISTER AT
10 THE TIME YOU LOOKED?

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11 A. THAT WAS THEIR PROCESSING PLANT, THEIR NORTHERN
12 PROCESSING PLANT.

13 Q. WERE THERE ALSO OFFICES THERE?

14 A. NO.

15 Q. SO THERE WAS A PROCESSING PLANT, WAS THERE A
16 PLACE FOR SHIPPING AND RECEIVING PRODUCE?

17 A. YES.

18 Q. A COOLER?

19 A. HAD A COOLER, YOU KNOW, TWO PROCESSING LINES.
20 IT WAS A BIG FACILITY, PROBABLY 40,000 SQUARE FEET.
21 OWNED ALSO BY MR. MARTINEZ.

22 Q. SO THAT WAS OWNED BY HIM PERSONALLY?

23 A. YES.

24 Q. AND WERE THERE OFFICES THERE FOR QUALITY

25 CONTROL PEOPLE AND PEOPLE RUNNING --
NONCERTIFIED ROUGH DRAFT

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1 A. THEY HAD QA PEOPLE. THEY HAD PRODUCTION
2 PEOPLE. AND I GUESS SALES AND RECEIVING PEOPLE.

3 Q. SALES AND RECEIVING?

4 A. YEAH.

5 Q. WAREHOUSE PEOPLE?

6 A. CORRECT.

7 Q. LOAD THE PRODUCE?

8 A. THAT'S CORRECT.

9 Q. BUT THEIR SALES OFFICE WAS LOCATED WHERE AT THE
10 TIME?

11 A. I THINK, I BELIEVE, YOU KNOW, MARK WILLIAMS
12 WOULD HAVE A BETTER SENSE, HE WAS OPERATING THE
13 BUSINESS, I BELIEVE THERE WERE SALESPeOPLE BOTH AT THE
14 HOLLISTER FACILITY AS WELL AS THE DAVIDSON FACILITY.

15 Q. THAT IS IN GILROY?

16 A. YEAH. I BELIEVE THAT'S THE CASE.

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17 Q. AND THAT WAS AT THE TIME IT WAS BEING OPERATED
18 BY GOURMET VEG-PAQ?

19 A. THAT'S CORRECT.

20 Q. AND THEN WHAT WAS THE EL CENTRO FACILITY?

21 A. THAT WAS A SOUTHERN PROCESSING PLANT. FOR THE
22 WINTER SEASON.

23 Q. AND WAS IT SIMILAR TO THE HOLLISTER FACILITY OR
24 SMALLER OR LARGER?

25 A. IT WAS SMALLER, IT WAS SMALLER.
NONCERTIFIED ROUGH DRAFT

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1 Q. AND DID THEY ALSO HAVE THE SAME THING, A
2 COOLER, A --

3 A. CORRECT.

4 Q. -- PROCESSING LINES? HOW MANY PROCESSING
5 LINES?

6 A. I THINK THERE WERE TWO PROCESSING LINES DOWN
7 THERE.

8 Q. AND WAS THERE ALSO SALES STAFF THAT --

9 A. I BELIEVE THE SALES MAINTAINED UP IN NORTHERN,
10 STILL UP IN GILROY. BUT DURING THE WINTER SEASON, ALL
11 THE GROWING OF CROPS AND PROCESSING TOOK PLACE DOWN IN
12 EL CENTRO.

13 Q. AND THEN YOU SAID THAT YOU WERE ALSO AT THE
14 TIME YOU WERE LOOKING AT THIS ACQUISITION OF GOURMET
15 VEG-PAQ LOOKING AT PREMIUM FRESH FARMS, A POTENTIAL
16 ACQUISITION OF THAT IN TANDEM?

17 A. CORRECT.

18 Q. WHAT WERE YOU LOOKING TO ACQUIRE FROM PREMIUM
19 FRESH?

20 A. THE OPERATING BUSINESS.

21 Q. AND ALSO ANY FACILITIES?

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22 A. THEY LEASED EVERYTHING. AND THE THOUGHT THERE
23 IS THAT THEIR BUSINESS COULD BE CONSOLIDATED WITH
24 GOURMET VEG-PAQ BECAUSE THEY HAD ADDITIONAL CAPACITY IN
25 THEIR PROCESSING PLANT AND THE OBJECTIVE WAS TO
NONCERTIFIED ROUGH DRAFT

1 CONSOLIDATE AND REDUCE THE OVERHEAD.

2 Q. SO IN THE APPRAISAL, THEN, WAS THERE ANY
3 APPRAISAL OF EQUIPMENT THAT WAS OWNED BY PREMIUM FRESH
4 OR ONLY --

5 A. THAT WAS THE APPRAISAL THAT WAS DONE BY BLUE
6 DIAMOND.

7 Q. AND SO THEY DID APPRAISAL OF THE LEASED
8 EQUIPMENT?

9 A. THEY DID AN APPRAISAL OF ALL THE EQUIPMENT THAT
10 RESIDED AT THE PREMIUM FRESH FARM FACILITY.

11 Q. BUT YOU ARE SAYING IT WAS MOSTLY NOT OWNED IT
12 WAS MOSTLY ALL LEASED?

13 A. NO, I DIDN'T SAY THAT.

14 Q. OH, OKAY. I THOUGHT YOU SAID THEY WERE LEASING
15 ALL THEIR EQUIPMENT. NO?

16 A. NO. SOME OF IT WAS OWNED, SOME OF IT WAS
17 LEASED I'M SURE, BUT I DON'T KNOW WHAT THE BREAKOUT IS.

18 Q. AND YOU ARE SAYING THE APPRAISAL ALSO COVERED
19 AN EVALUATION OF THAT EQUIPMENT?

20 A. THAT'S CORRECT.

21 Q. AND HOW -- WAS THERE ONE PLANT, TWO PLANTS, HOW
22 MANY PLANTS DID PREMIUM FRESH HAVE?

23 A. I BELIEVE IT WAS A SINGLE PLANT UP IN NORTHERN
24 CALIFORNIA.

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25 Q. WHERE?
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1 A. SALINAS.

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2 Q. AND THEY DIDN'T HAVE A SOUTHERN OPERATION
3 OR --

4 A. I DON'T BELIEVE SO. THEY DID, BUT I CAN'T
5 RECALL WHERE IT WAS. GIVEN THE NATURE OF THE BUSINESS,
6 I'M SURE THEY MAINTAINED A SOUTHERN PLANT AND I HAVE NO
7 IDEA WHERE THAT WAS LOCATED.

8 Q. WAS THAT APPRAISED?

9 A. NO.

10 Q. SO ONLY THE SALINAS PLANT WAS APPRAISED?

11 A. THAT'S CORRECT. THE EQUIPMENT IN THE SALINAS
12 PLANT WAS APPRAISED. THEY DID NOT OWN THE REAL ESTATE.

13 Q. AND THEN YOU SAID THAT REAL ESTATE WAS
14 APPRAISED IN BOTH HOLLISTER AND EL CENTRO --

15 A. THAT'S CORRECT.

16 Q. -- THAT GOURMET VEG-PAQ OWNED?

17 A. THAT'S CORRECT.

18 Q. AND THEN AT SOME POINT IN TIME, YOU STARTED
19 TALKING -- YOUR GROUP DECIDED THAT THEY WERE GOING TO
20 MOVE FORWARD WITH AN ACQUISITION?

21 A. THAT'S CORRECT.

22 Q. AND AT THE TIME YOU DECIDED, WAS IT THOSE SAME
23 ORIGINAL I THINK IT WAS FIVE OR SIX PEOPLE WHO YOU HAD
24 PREVIOUSLY DESCRIBED, MR. MCCORMICK, JACK PARSON,
25 WILLIAMS, YOURSELF AND --

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NONCERTIFIED ROUGH DRAFT

1 A. WE DID NOT SET UP FRESH 'N HEALTHY UNTIL SUCH
2 TIME AS WE WERE UNDER A LETTER OF INTENT TO ACQUIRE
3 GOURMET VEG-PAQ.

4 Q. YOU SAID THAT INITIALLY THERE WERE SIX OR SEVEN
5 FOUNDERS AND YOU NAMED WHO YOU RECALLED --

6 A. YES.

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7 Q. -- WERE THE INITIAL FOUNDERS. AND THAT
8 CORPORATE ENTITY WAS SET UP AT THE TIME WHEN YOU WERE
9 DOING THE LETTER OF INTENT WITH GOURMET VEG-PAQ?

10 A. THAT'S CORRECT.

11 Q. AND THEN YOU SAID THERE WAS AN INITIAL
12 CAPITALIZATION OF MINIMAL AMOUNT OF TEN TO 15,000. AND
13 THEN SUBSEQUENTLY WAS THERE MORE CAPITALIZATION PUT IN?

14 A. YES, WE ARRANGED FINANCING FOR THE GOURMET
15 VEG-PAQ TRANSACTION, WHICH INCLUDED COMERICA BANK,
16 MR. MARTINEZ TOOK BACK SOME SELLER FINANCING, WE HAD --
17 A THIRD-PARTY INVESTOR PROVIDED CAPITAL TO ACQUIRE THE
18 EL CENTRO FACILITY. AND THEN WE HAD ONE PRIVATE
19 INVESTOR WHO CONTRIBUTED EQUITY CAPITAL. AND THEN
20 WITHIN ABOUT 60 DAYS, WE ENDED UP RAISING ANOTHER
21 MILLION AND A HALF OF EQUITY.

22 Q. LET'S GO THROUGH THAT. COMERICA BANK, HOW MUCH
23 FINANCING DID THEY PROVIDE?

24 A. THEY PROVIDED A \$3 1/2 MILLION TERM LOAN AND A
25 \$1 1/2 MILLION LINE OF CREDIT WHICH WAS A FORMULA LINE
NONCERTIFIED ROUGH DRAFT

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1 BASED ON RECEIVABLES.

2 Q. HOW MUCH OF THE LINE OF CREDIT ONE?

3 A. I THINK IT WAS 1 1/2 MILLION. IT WAS A
4 COMMITMENT BUT IT WAS SUBJECT TO THE AMOUNT OF ACCOUNTS
5 RECEIVABLE THAT WAS ON THE BALANCE SHEET. SO AT THE
6 INCEPTION, THE FULL MILLION-AND-A-HALF WAS NOT
7 AVAILABLE. I BELIEVE THERE WAS PROBABLY A MILLION ONE
8 OF RECEIVABLES AND AT 80 PERCENT WE PROBABLY --
9 80 PERCENT ADVANCE RATE WE PROBABLY HAD ABOUT 800,000
10 AVAILABLE TO US.

11 Q. OKAY. AND THEN YOU SAID MARTINEZ TOOK BACK
12 SOME PAPER?

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13 A. YES.

14 Q. WHAT WAS THAT?

15 A. APPROXIMATELY 5 MILLION. MARTINEZ ALSO
16 REINVESTED A MILLION TWO-FIFTY INTO A SERIES A STOCK.

17 Q. SO THE \$5 MILLION OF PAPER WHATEVER THAT
18 MARTINEZ TOOK, WHAT WAS THAT FOR?

19 A. TOTAL CONSIDERATION, THE TOTAL, WE HAD PRICED
20 THE TRANSACTION TO VALUE THE COMPANY BASED ON GOURMET
21 VEG-PAQ'S 2005 RESULTS. AT THAT TIME, IT WAS
22 REPRESENTED TO US THAT GOURMET VEG-PAQ HAD GENERATED
23 ABOUT \$2 MILLION OF CASH FLOW. WE PRICED THE
24 TRANSACTION AT ABOUT 5, 5 1/2 TIMES CASH FLOW TO ATTAIN
25 A VALUE FOR GOURMET VEG-PAQ.

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NONCERTIFIED ROUGH DRAFT

1 Q. WHAT WAS THE --

2 A. THAT'S THAT --

3 Q. WHAT WAS THE GOURMET VEG-PAQ VALUE THEN AT,
4 10 MILLION OR --

5 A. WE PAID ROUGHLY ABOUT \$12 MILLION FOR THE
6 BUSINESS. WHICH INCLUDED \$3 MILLION FOR THE PROCESSING
7 FACILITY. SO WHAT YOU HAVE IS 3 1/2 IN CASH, LET'S SEE,
8 3 1/2 FROM THE TERM LOAN, \$5 MILLION IN SELLER
9 FINANCING, 1.25 IN MARTINEZ EQUITY, AND THEN \$3 MILLION
10 FOR THE EL CENTRO FACILITY. SO 8 1/2, 9 3/4, ABOUT \$12
11 3/4 MILLION.

12 Q. WAS THE TOTAL PRICE. AND THAT WAS BROKEN DOWN
13 AND \$3 MILLION WAS PAID FOR EL CENTRO?

14 A. CORRECT.

15 Q. AND THAT WAS A PRIVATE THIRD-PARTY INVESTOR
16 THAT BOUGHT THAT EL CENTRO?

17 A. YES. WE SET UP -- FOR TEMPORARY PURPOSES, WE

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18 SET UP AN ENTITY BY THE NAME OF CARNOUSTIE PROPERTIES.

19 Q. AND IS THAT CARNOUSTIE PROPERTIES, WAS THAT

20 JUST A NEW ENTITY OR --

21 A. YES, IT WAS A NEW ENTITY.

22 Q. OKAY.

23 A. OUR STRATEGY WAS TO HAVE ALL THE REAL ESTATE IN

24 A SEPARATE ENTITY AND IT WASN'T ONLY THE PROCESSING

25 FACILITIES, BUT WE HAD STARTED CONVERSATIONS TO ACQUIRE
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 40

1 FARMLAND. AND THE INTENT WAS TO BUY BOTH THE EL CENTRO

2 FACILITY AS WELL AS THE HOLLISTER FACILITY AS PART OF

3 THE OVERALL GOURMET TRANSACTION.

4 Q. BUT HOLLISTER WASN'T PURCHASED?

5 A. IT WAS NOT PURCHASED AT THE TIME.

6 Q. SO THE 12.3 MILLION DID NOT INCLUDE A PURCHASE

7 OF --

8 A. HOLLISTER.

9 Q. -- HOLLISTER?

10 A. THAT'S CORRECT.

11 Q. WHO IS THE THIRD-PARTY INVESTOR FOR EL CENTRO?

12 A. HE WAS A PRIVATE INVESTOR, BILL POLAND.

13 Q. P-O-L-A-N-D?

14 A. THAT'S CORRECT.

15 A. HE WAS A LENDER, HE PROVIDED A CONVERTIBLE NOTE

16 TO FINANCE EL CENTRO.

17 Q. WAS HE THE OWNER OF CARNOUSTIE PROPERTIES?

18 A. NO. WE SET UP TEMPORARILY CARNOUSTIE WAS

19 MYSELF AND MARK WILLIAMS. WE WERE IN THE PROCESS OF

20 RAISING MORE FUNDS INTO CARNOUSTIE WHEREBY WILLIAMS AND

21 I WOULD HAVE A DE MINIMUS EQUITY POSITION BUT BECAUSE OF

22 THE PERFORMANCE OF THE COMPANY, FOLLOW-UP FINANCING IN

23 THE FALL BECAME PROBLEMATIC FOR CAPITAL NOT ONLY IN

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24 CARNOUSTIE BUT ALSO IN FRESH 'N HEALTHY.

□ Rough Draft - 41

25 Q. WE'RE GETTING AHEAD OF OURSELVES.
NONCERTIFIED ROUGH DRAFT

1 A. SURE.

2 Q. SO THIS BILL POLAND GAVE A CONVERTIBLE NOTE AND
3 OTHER THAN THAT THERE WAS NO EQUITY PUT INTO THE
4 CARNOUSTIE PROPERTIES?

5 A. THAT'S CORRECT.

6 Q. AND SO CARNOUSTIE PROPERTIES STILL HOLDS THE
7 DEED TO --

8 A. THAT'S CORRECT.

9 Q. -- EL CENTRO?

10 A. THAT'S CORRECT.

11 Q. AND WHAT IS THE EL CENTRO FACILITY DOING NOW?

12 A. IT'S IDLE.

13 Q. IS IT UP FOR SALE?

14 A. I'M HOLDING CONVERSATIONS WITH POLAND ABOUT
15 DOING A DEED IN LIEU AND THEN TRYING TO SELL IT. AND IN
16 ALL LIKELIHOOD MARTINEZ WILL BE BUYING IT BACK.

17 Q. FOR HOW MUCH?

18 A. LESS THAN THE PURCHASE PRICE.

19 Q. WHY IS THAT?

20 A. THE ORIGINAL TRANSACTION, THE REAL ESTATE VALUE
21 WAS LESS THAN THE 3 MILLION BUT FOR A SELLER
22 ACCOMMODATIONS AND TAX PURPOSES, WE HAD ALLOCATED A
23 HIGHER AMOUNT OF THE TOTAL CONSIDERATION TO THE REAL
24 ESTATE JUST PURCHASE PRICE ACCOUNTING TO ALLOW MARTINEZ
25 TO DO A 1031 EXCHANGE ON A HIGHER DOLLAR AMOUNT OF THE
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 42

1 PROCEEDS HE RECEIVED IN THE ACQUISITION.

2 Q. AND SO HAVE YOU HAD ANY -- WHEN THAT EL CENTRO

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3 PLANT WAS APPRAISED --

4 A. PROBABLY ABOUT A MILLION 1/2.

5 Q. IT WAS APPRAISED AT A MILLION 1/2?

6 A. THAT'S CORRECT. AND AGAIN IT WAS AN

7 ACCOMMODATION TO ASSIGN THE VALUE. WE SUPPORTED THE

8 VALUE ON AN ONGOING BASIS IN AN ATTEMPT TO REFINANCE

9 THAT BY DRAWING UP A LEASE BETWEEN CARNOUSTIE AND FRESH

10 'N HEALTHY, AND I CAN'T REMEMBER THE DOLLAR AMOUNT OF

11 THE LEASE OR THE MONTHLY PAYMENT, BUT BASED ON CURRENT

12 MARKET CONDITIONS, BASED ON THE INCOME STREAM, WE COULD

13 VALUE THE EL CENTRO FACILITY PROBABLY ABOUT

14 3 1/2 MILLION BASED ON AN INCOME APPROACH.

15 Q. AND DID FRESH 'N HEALTHY EVER MAKE ANY LEASE

16 PAYMENTS TO CARNOUSTIE?

17 A. NOT DIRECTLY. BUT IT DID PAY THE INTEREST AND

18 EXPENSES TO POLAND, WHICH IN EFFECT WAS A LEASE PAYMENT.

19 Q. WHAT WAS THE INTEREST RATE ON THE NOTE?

20 A. I THINK THE TOTAL INTEREST RATE WAS 12 PERCENT

21 OF WHICH 6 PERCENT WAS PAID CURRENTLY, THE REST WAS

22 ACCRUED.

23 Q. AND BILL POLAND GAVE A \$3 MILLION NOTE?

24 A. CORRECT.

25 Q. AND THAT INTEREST MONEY WAS PAID OUT OF MONEY

ROUGH Draft - 43

NONCERTIFIED ROUGH DRAFT

1 FROM FRESH 'N HEALTHY FROM ITS OPERATIONS?

2 A. THAT'S CORRECT.

3 Q. AND THEN YOU SAID THAT THERE WAS ALSO A PRIVATE

4 INVESTOR THAT INITIALLY PUT UP SOME EQUITY CAPITAL --

5 A. YES.

6 Q. -- FOR THE TRANSACTION. WHO IS THAT?

7 A. JOHN GIBBONS.

8 Q. HOW MUCH DID HE PUT UP?

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9 A. HE PUT \$250,000.

10 Q. AND THEN DID MR. MARTINEZ GET ANY MONEY WHEN HE
11 INITIALLY MADE THE DEAL?

12 A. SURE, HE PICKED UP 3 1/2 -- SEVEN PLUS MILLION
13 DOLLARS IN CASH.

14 Q. HE WAS PAID 7 MILLION?

15 A. CORRECT. AND THEN HE --

16 Q. PLUS A \$5 MILLION NOTE?

17 A. THAT'S CORRECT. AND THEN HE HAD THE MILLION
18 TWO OF EQUITY.

19 Q. SO HE DIDN'T PUT IN ANY MONEY, THAT WAS JUST --

20 A. HE WAS THE SELLER.

21 Q. SO THAT WAS JUST DEDUCTED OUT OF HIS 7 MILLION
22 HE WAS OWED HE TOOK ONE POINT --

23 A. NO, THAT WAS IN ADDITION.

24 Q. SO HE GOT \$7 MILLION OUT OF IT AND THEN HE PUT
25 1.2 MILLION BACK INTO IT?

□ Rough Draft - 44

NONCERTIFIED ROUGH DRAFT

1 A. YOU CAN SAY THAT HE GOT 8.25 MILLION OF WHICH
2 1.25 WENT BACK INTO THE EQUITY. SO NET HE RECEIVED
3 7 MILLION IN CASH PLUS THE RESIDUAL SECURITIES.

4 Q. AND THE \$5 MILLION SELLER FINANCING, WHAT WERE
5 THE TERMS OF THAT?

6 A. I BELIEVE IT WAS A FIVE- OR SEVEN-YEAR NOTE AT
7 EITHER 6 OR 8 PERCENT.

8 Q. WERE INTEREST PAYMENTS MADE ON THE NOTE?

9 A. NO. THEY WERE -- THE BANK PROHIBITED INTEREST
10 PAYMENTS UNTIL SUCH TIME THAT THE COMPANY DEMONSTRATED A
11 CERTAIN CASH FLOW LEVEL.

12 Q. SO THE 8.2 MILLION THAT WAS PAID TO MARTINEZ
13 INITIALLY, WELL, 7 MILLION NET, YOU GOT 3 1/2 MILLION OF

Cinelli.ROUGH~1.TXT

14 THAT FROM THE COMERICA LINE OF TERM LOAN?

15 A. UH-HUH.

16 Q. AND YOU GOT 3 MILLION OF THAT FROM THE
17 CARNOUSTIE INVESTMENT?

18 A. UH-HUH.

19 Q. AND THEN 250,000 OF EQUITY CAPITAL FROM
20 GIBBONS?

21 A. YES.

22 Q. AND SO THAT'S WHAT REALLY FINANCED THE
23 ACQUISITION?

24 A. THAT'S CORRECT.

25 Q. AND THEN YOU SAID YOU GOT A \$1 1/2 MILLION LINE
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 45

1 OF CREDIT FROM COMERICA FOR OPERATING CAPITAL?

2 A. THAT'S CORRECT.

3 Q. AND THEN THERE WAS 1 1/2 MILLION OF EQUITY THAT
4 WAS RAISED?

5 A. YES, WITHIN ABOUT 60 TO 90 DAYS AFTER THE
6 INITIAL CLOSING.

7 Q. WAS THAT SOME KIND OF PRIVATE PLACEMENT OR
8 WAS --

9 A. YES, IT WAS A PRIVATE PLACEMENT TO INDIVIDUAL
10 INVESTORS.

11 Q. AND WHO DID THE PRIVATE PLACEMENT?

12 A. THE COMPANY.

13 Q. FRESH 'N HEALTHY ITSELF?

14 A. UH-HUH.

15 Q. SO THERE WAS NO INVESTMENT BANKING FIRM
16 INVOLVED?

17 A. I FACILITATED IT BUT AS AN INSIDER. IT WAS
18 FRESH 'N HEALTHY THAT DID THE PLACEMENT.

19 Q. AND OTHER THAN THAT \$1 1/2 MILLION OF EQUITY

Cinelli.ROUGH~1.TXT

20 THAT WAS IN THE PRIVATE PLACEMENT, WAS THERE ANY OTHER
21 FINANCING THAT WAS RAISED?

22 A. NONE.

23 MS. ANASTASSIOU: LET'S MARK THIS AS EXHIBIT 2.

24 (EXHIBIT SC-1 MARKED.)

25

□ Rough Draft - 46

NONCERTIFIED ROUGH DRAFT

1 BY MS. ANASTASSIOU:

2 Q. I HAVE JUST HANDED THE WITNESS A DOCUMENT
3 THAT'S MARKED SC NO. 2 AND IT'S A COPY OF A COMPLAINT,
4 ASA FARMS VERSUS FRESH 'N HEALTHY INC.. AND IT IS BATES
5 STAMP NUMBER SNO 418 THROUGH SNO 433. AND IN THIS
6 PARTICULAR LAWSUIT, THERE IS A NUMBER OF INDIVIDUALS
7 LISTED AS BEING INVOLVED OR INDIVIDUALS AND ENTITIES AS
8 BEING INVOLVED IN FRESH 'N HEALTHY, AND I'D LIKE YOU TO
9 IDENTIFY TO ME AS WE GO THROUGH THEM ONE BY ONE WHETHER
10 OR NOT THOSE WERE THE PERSONS INVOLVED IN THAT PRIVATE
11 PLACEMENT THAT YOU JUST DISCUSSED.

12 FIRST NAME IS MARK WILLIAMS.

13 A. NO. HE SERVED AS CEO OF THE COMPANY.

14 Q. DID HE --

15 A. NO.

16 Q. DID MARK WILLIAMS MAKE ANY INVESTMENT
17 PERSONALLY IN THE COMPANY?

18 A. NO, HE DID NOT.

19 Q. DID HE GET A SHAREHOLDER INTEREST IN THE
20 COMPANY?

21 A. YES, HE WAS THE LARGEST SHAREHOLDER.

22 Q. HOW MUCH DID HE GET IN THE COMPANY?

23 A. HE PROBABLY OWNED 18 PERCENT OF THE COMPANY.

24 Q. AND NO MONEY PUT IN?

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Cinelli.ROUGH~1.TXT
A. THAT'S CORRECT.
NONCERTIFIED ROUGH DRAFT

25

1 Q. AND WHAT WAS THE BASIS THEN FOR HIM GETTING
2 18 PERCENT OF STOCK?

3 A. WHEN FRESH 'N HEALTHY WAS FORMED, WE JUST
4 ALLOCATED A CERTAIN NUMBER OF SHARES TO VARIOUS PEOPLE
5 BASED ON RESPONSIBILITIES AND INCENTIVE.

6 Q. WAS MR. WILLIAMS PAID A SALARY FOR BEING CEO?

7 A. YES.

8 Q. WHAT WAS HIS SALARY?

9 A. I BELIEVE IT WAS 240,000.

10 Q. A YEAR?

11 A. YES.

12 Q. AND WHEN DID THAT SALARY COMMENCE?

13 A. WE'RE TRYING TO FIGURE THAT OUT. AND I SAY
14 THAT BECAUSE THE SALARY ACTUALLY COMMENCED IN I GUESS
15 FEBRUARY OF '07 AT THE TIME OF THE ACQUISITION OF
16 GOURMET VEG-PAQ, BUT WE FOUND THAT BOTH HE AND MARK
17 MCCORMICK, WHO WAS CFO AT THE TIME, HAD, HAD PAID EACH
18 OTHER FOR SERVICES RENDERED PRIOR TO THE TIME OF
19 CLOSING.

20 Q. SO THAT HIS SALARY WAS SUPPOSED TO COMMENCE IN
21 FEBRUARY OF 2007 BUT YOU BELIEVE NOW THAT HE STARTED
22 TAKING SALARY EARLIER?

23 A. HE ACCRUED SALARY EARLIER AND BOTH HE AND MARK
24 MCCORMICK, THE CFO, PAID EACH OTHER, I'M TRYING TO
25 FIGURE OUT HOW MUCH, FOR SERVICES RENDERED PRIOR TO THE
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 48

1 CLOSING. SO SORT OF BACK CONSULTING FEES.

2 Q. WHERE DID IT GO BACK TO, WHAT TIME PERIOD?

3 A. STILL TRYING TO FIGURE THAT OUT. PROBABLY
4 THREE, FOUR, FIVE MONTHS.

Cinelli.ROUGH~1.TXT

5 Q. DO YOU KNOW WHERE MR. WILLIAMS IS LOCATED NOW?

6 A. I HAVE NO IDEA.

7 Q. WHEN WAS THE LAST TIME YOU SPOKE TO

8 MR. WILLIAMS?

9 A. PROBABLY TWO MONTHS AGO. IT'S MY UNDERSTANDING

10 HE TOOK OFF TO COSTA RICA.

11 Q. WHAT IS HE DOING IN COSTA RICA?

12 A. I HAVE NO IDEA.

13 Q. AND THEN JACK PARSON, WAS HE INVOLVED IN THE

14 PRIVATE PLACEMENT AS AN EXINDIVIDUAL THAT IS LISTED ON

15 THE COMPLAINT HERE IN SC NO. 2?

16 A. HE WAS A MEMBER OF THE MANAGEMENT TEAM.

17 Q. DID HE CONTRIBUTE --

18 A. NO, HE DID NOT.

19 Q. OKAY.

20 A. IN FACT, HE OWES THE COMPANY NEARLY \$200,000.

21 Q. WHY DOES HE OWE THE COMPANY \$200,000?

22 A. BECAUSE HE WAS -- HE'S INVOLVED IN A SEPARATE

23 COMPANY BY THE NAME OF DIVERSIFIED FOOD NETWORK. AND HE

24 PURCHASED PRODUCT FROM FRESH 'N HEALTHY FOR RESALE, SOLD

25 THE PRODUCT, BUT DID NOT PAY FRESH 'N HEALTHY BACK. AND
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 49

1 SO THERE IS A PRELIMINARY PACA FILING AGAINST HIM.

2 Q. WHEN WAS HE MAKING PURCHASES OF PRODUCE?

3 A. THROUGH THE FALL AND WINTER OF 2007.

4 Q. AND DID HE MAKE ANY CLAIMS THAT THE PRODUCT HE

5 GOT FROM FRESH 'N HEALTHY HAD PROBLEMS OR --

6 A. NO.

7 Q. AS FAR AS YOU KNOW, THE PRODUCE WAS FINE, IT

8 WAS PAID FOR BY THE CUSTOMERS AND THEN PARSON DID NOT

9 PAY THE AGREED UPON PRICE TO FRESH 'N HEALTHY?

10 A. Cinelli.ROUGH~1.TXT
 THAT'S CORRECT.

11 Q. AND DID JACK PARSON HAVE A SHAREHOLDER INTEREST
12 IN FRESH 'N HEALTHY?

13 A. YES.

14 Q. AND HOW MUCH?

15 A. HE PROBABLY HAD 12 TO 15 PERCENT.

16 Q. AND HE WAS -- HE CONTRIBUTED NO MONEY FOR THAT
17 INTEREST?

18 A. NO, THAT'S CORRECT.

19 Q. WHAT WAS JACK PARSON'S ROLE TO BE IN FRESH 'N
20 HEALTHY?

21 A. HE BEGAN OVERSEEING THE I BELIEVE THE FARMING
22 OPERATION, AND HE DID SPECIAL PROJECTS FOR MARK
23 WILLIAMS, I DON'T KNOW TO WHAT EXTENT.

24 Q. WAS HE ON SALARY?

25 A. I THINK HE BEGAN WITH SALARY AND THEN HE MOVED
 NONCERTIFIED ROUGH DRAFT

1 TO A CONSULTANT.

2 Q. DO YOU KNOW WHAT HE WAS PAID --

3 A. I HAVE NO IDEA.

4 Q. -- FOR THE CONSULTING FEE?

5 A. I DON'T KNOW. THAT WAS BETWEEN HE AND
6 WILLIAMS.

7 Q. AND THEN THE NEXT PERSON THAT'S LISTED ON THIS
8 COMPLAINT IS YOURSELF, STEVEN CINELLI.

9 A. YOU HAD -- OH, OKAY.

10 Q. AND WERE -- DID YOU PARTICIPATE IN THIS PRIVATE
11 PLACEMENT THAT WE JUST DISCUSSED?

12 A. NO, NOT IN THIS ONE.

13 Q. AND DID YOU OBTAIN A SHAREHOLDER INTEREST IN
14 FRESH 'N HEALTHY?

15 A. YES. AT THE TIME OF ITS CREATION.

□ Rough Draft - 50

Cinelli.ROUGH~1.TXT

16 Q. WHAT WAS THE SHAREHOLDER INTEREST?

17 A. PROBABLY ABOUT 12 TO 15 PERCENT.

18 Q. AND YOU SAID PREVIOUSLY THAT YOU MADE SOME KIND
19 OF CAPITAL CONTRIBUTION?

20 A. VERY DE MINIMUS, TEN, \$15,000 UP FRONT. REALLY
21 TO DEFRAY CERTAIN EXPENSES.

22 Q. THAT WAS FOR -- MOSTLY FOR LEGAL FEES --

23 A. CORRECT.

24 Q. -- IN THE FORMATION?

25 A. CORRECT.

□ Rough Draft - 51

NONCERTIFIED ROUGH DRAFT

1 Q. AND THEN AFTER YOU RECEIVED THE STOCK, DID YOU
2 EVER MAKE ANY ADDITIONAL CONTRIBUTIONS FOR THE STOCK
3 OTHER THAN TEN TO \$15,000 YOU DID AT FORMATION?

4 A. NO. THE COMPANY AS PART OF THE ORIGINAL
5 TRANSACTION WAS LIABLE TO PAY ME A BANKING AND ADVISORY
6 FEE FOR COORDINATING THE FINANCING AS WELL AS AN ONGOING
7 ADVISORY FEE SUBSEQUENT TO THE CLOSING OF WHICH I
8 RECEIVED A LIMITED AMOUNT OF THAT. AND THERE'S PROBABLY
9 A GOOD THREE TO FOUR HUNDRED THOUSAND DOLLARS IF NOT
10 MORE OF MONEYS DUE ME UNDER SPECIFIC CONTRACTS.

11 Q. SO THE BANKING AND ADVISORY FEE FOR
12 COORDINATING THE FINANCING, HOW MUCH WAS THAT?

13 A. IT WAS FORMULA BASED, IT WAS PROBABLY \$450,000.

14 Q. AND HOW MUCH OF THAT DID THE COMPANY PAY YOU?

15 A. I THINK PROBABLY ABOUT 70.

16 Q. AND THEN YOU SAID THERE WAS ONGOING FEES, WAS
17 THERE A SALARY OR WAS IT JUST A CONSULTING FEE?

18 A. IT WAS A CONSULTING AGREEMENT APPROVED BY THE
19 BANK.

20 Q. AND HOW MUCH WERE YOU GETTING PAID BY THE

Cinelli.ROUGH~1.TXT
21 CONSULTING AGREEMENT?

22 A. I BELIEVE IT WAS \$15,000 A MONTH AND I THINK I
23 GOT ONE MONTH, POSSIBLY TWO MONTHS OF THAT.

24 Q. SO YOUR TESTIMONY IS THAT PROBABLY THE PAYMENTS
25 THAT YOU RECEIVED IN TOTAL FROM FRESH 'N HEALTHY WERE
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 52

1 ABOUT A HUNDRED THOUSAND?

2 A. YES, PROBABLY.

3 Q. WERE YOU GETTING ANY INSURANCE OR BENEFITS?

4 A. I DID GET FOR A PERIOD OF TIME HEALTH BENEFITS,
5 THEY COVERED MY HEALTH BENEFIT.

6 Q. WHEN WAS THAT?

7 A. PROBABLY FROM MARCH THROUGH DECEMBER.

8 Q. OF '07?

9 A. THAT'S CORRECT.

10 Q. AND THIS WAS HEALTH INSURANCE THAT WAS BEING
11 GIVEN TO ALL THE EMPLOYEES?

12 A. YES. ALL SALARIED EMPLOYEES.

13 Q. SO MARK WILLIAMS ALSO GOT THAT?

14 A. YES, YES.

15 Q. WHEN DID MARK WILLIAMS' SALARY TERMINATE?

16 A. PROBABLY IN DECEMBER.

17 Q. AND THEN THERE IS AN INDIVIDUAL HERE NAMED CHAD
18 HAGEN, H-A-G-E-N?

19 A. YEAH. HE WAS THE HEAD OF MARKETING FOR THE
20 COMPANY.

21 Q. WAS HE ALSO A SHAREHOLDER?

22 A. I DON'T BELIEVE THAT WAS CONSUMMATED. HE
23 WAS -- WILLIAMS NEVER FINISHED UP THE OPTIONS TO
24 EMPLOYEES.

25 Q. SO HE WAS SUPPOSED TO BE GIVEN AN OPTION BUT
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 53

Cinelli.ROUGH~1.TXT

1 NEVER CONSUMMATED?

2 A. THAT'S CORRECT.

3 Q. DID -- AND MR. HAGEN DIDN'T INVEST ANY MONEY?

4 A. NO, HE DID NOT.

5 Q. AND WHEN DID HE WORK FOR THE COMPANY?

6 A. PROBABLY FROM JANUARY, PROBABLY JANUARY OR

7 DECEMBER THROUGH MAY, MAY OR JUNE.

8 Q. JANUARY OF 2006?

9 A. '7.

10 Q. SO THIS WAS BEFORE THE ACQUISITION HAPPENED?

11 A. YES. MARK WILLIAMS HAD RETAINED A SERIES OF
12 PEOPLE. WE ANTICIPATED THAT THE TRANSACTION WAS GOING
13 TO CLOSE PRIOR TO THANKSGIVING OF '06, BUT BECAUSE OF
14 THE LEGAL NEGOTIATIONS, IT TOOK MUCH, MUCH LONGER.

15 Q. WHO ELSE OTHER THAN CHAD HAGEN WAS ON FRESH 'N
16 HEALTHY PAYROLL PRIOR TO THE ACQUISITION CLOSING?

17 A. MARK MCCORMICK, CFO.

18 Q. AND DO YOU KNOW WHAT CHAD HAGEN'S SALARY WAS?

19 A. NO, I DON'T.

20 Q. DO YOU KNOW MARK MCCORMICK?

21 A. NO, I DON'T.

22 Q. ANYBODY ELSE?

23 A. TOM PAVICH. HE WAS THE HEAD OF SALES. AND I
24 DON'T KNOW WHAT HE WAS COMPENSATED EITHER.

25 Q. AND YOU HAD INDICATED PREVIOUSLY THAT TOM
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 54

1 PAVICH WAS ONE OF THE ORIGINAL SHAREHOLDERS?

2 A. I DON'T BELIEVE THAT WAS FINALIZED EITHER.

3 Q. SO HE WAS TO BECOME ONE --

4 A. YES.

5 Q. -- BUT NEVER DID?

6 Cinelli.ROUGH~1.TXT
A. YES.

7 Q. DID HE EVER CONTRIBUTE ANY EQUITY?

8 A. NO.

9 Q. AND THEN SANTOS MARTINEZ?

10 A. YES.

11 Q. YOU SAID THAT HE WAS A SHAREHOLDER FROM THE
12 GET-GO?

13 A. YES.

14 Q. AND HE HAD THAT \$1.2 MILLION CONTRIBUTION THAT
15 WAS A REBATE ESSENTIALLY OF WHAT HE WAS PAID FOR THE
16 ASSETS?

17 A. FOR THE MOST PART, YES.

18 Q. IN OTHER WORDS, HE WAS -- IT WAS MONEY THAT WAS
19 PAID OUT AND THEN HE CONTRIBUTED PART OF IT BACK?

20 A. CORRECT.

21 Q. AND ANY -- OTHER THAN THAT \$1.2 MILLION
22 CONTRIBUTION FROM PART OF THE SALES PROCEEDS, DID HE
23 CONTRIBUTE ANY OTHER MONEY?

24 A. NO.

25 Q. AND WAS HE ON SALARY?
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 55

1 A. HE WAS ON A CONSULTING AGREEMENT, I THINK IT
2 WAS A THREE-YEAR CONSULTING AGREEMENT.

3 Q. HOW MUCH WAS HE BEING PAID ON THAT?

4 A. I DON'T KNOW. I THINK IT WAS BETWEEN TEN AND
5 15,000 A MONTH, MY RECOLLECTION.

6 Q. AND WHAT WAS HE DOING FOR THE CONSULTING FEE?

7 A. YOU WOULD HAVE TO ASK MARK WILLIAMS. MARK
8 ASSIGNED CERTAIN TASKS, I WOULD IMAGINE IT HAD TO DO
9 WITH OVERSEEING THE FARM OPERATION. AND PROBABLY
10 BRINGING MARK WILLIAMS UP TO SPEED ON SOME OF THE
11 NUANCES OF THE BUSINESS.

Cinelli.ROUGH~1.TXT

12 Q. AND THEN YOU SAID THAT THERE WAS ALSO -- HE HAD
13 A NOTE BUT AS FAR AS YOU KNOW THERE WERE NO NOTE
14 PAYMENTS MADE?

15 A. THAT'S CORRECT, THAT'S CORRECT.

16 Q. AND THEN YOU INDICATED THERE WAS A LEASE OF THE
17 FACILITIES IN HOLLISTER AND GILROY?

18 A. YES. AS WELL AS FARMLAND THAT WAS OWNED BY
19 MARTINEZ. AND THAT WAS ALL LEASED TO FRESH 'N HEALTHY
20 OF WHICH FRESH 'N HEALTHY MADE PAYMENTS.

21 Q. OKAY. SO THERE WAS A LEASE OF HOLLISTER AND
22 GILROY AND ALSO FARMLAND?

23 A. CORRECT.

24 Q. AND DO YOU KNOW WHAT THE LEASE PAYMENTS WERE?

25 A. NO, I DON'T.
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 56

1 Q. DO YOU KNOW IF THEY WERE ALL MADE?

2 A. THEY WERE MADE THROUGH PROBABLY THE FALL AND
3 THEN WHEN FRESH 'N HEALTHY HAD CASH FLOW ISSUES, I
4 BELIEVE WILLIAMS SUSPENDED THOSE PAYMENTS.

5 Q. WHEN YOU SAY THROUGH THE FALL, DO YOU REMEMBER
6 WHAT MONTH IN THE FALL?

7 A. NO, NO.

8 Q. AND OTHER THAN THE CONSULTING ARRANGEMENT AND
9 LEASE PAYMENTS, ANY OTHER COMPENSATION THAT SANTOS WAS
10 GETTING?

11 A. JUST HIS EQUITY INTEREST IN THE COMPANY.

12 Q. AND WHAT ABOUT DON BEAM, B-E-A-M?

13 A. THE REST OF THE FOLKS WERE BASICALLY
14 PARTICIPANTS IN THE 1 1/2 MILLION PRIVATE PLACEMENT.

15 Q. THAT ARE LISTED THERE ON THE COMPLAINT?

16 A. UH-HUH.

Cinelli.ROUGH~1.TXT

17 Q. DO YOU KNOW HOW MUCH DON BEAM CONTRIBUTED?

18 A. OH, 25,000, 50,000.

19 Q. AND DARRYL NICHOLSON?

20 A. I CAN'T RECALL SPECIFICALLY WHAT THE DOLLAR
21 AMOUNTS ARE, IT RANGES ANYWHERE FROM 25,000 TO 200,000.

22 Q. OF THE REST OF THE INDIVIDUALS LISTED?

23 A. JUST TO BE SPECIFIC, PRESTWICK PARTNERS LLC
24 DOES NOT EXIST. SOLSTICE VENTURE PARTNERS WAS AN
25 ENTITY.

□ Rough Draft - 57

NONCERTIFIED ROUGH DRAFT

1 Q. WAS PRESTWICK PARTNERS, INC., WAS THAT AN
2 INVESTOR IN THE PRIVATE PLACEMENT?

3 A. NO, IT WASN'T. THE SECURITIES THAT I OWN
4 PERSONALLY IN FRESH 'N HEALTHY WHICH RESULTED FROM THE
5 FOUNDERS STOCK ARE HELD IN PRESTWICK PARTNER INC, NOT IN
6 MY NAME PERSONALLY.

7 Q. SO PRESTWICK PARTNERS LLC?

8 A. THAT'S CORRECT.

9 Q. PRESTWICK PARTNERS INC. HOLDS THE STOCK YOU
10 WERE GIVEN AS A FOUNDER FOR WHICH YOU PAID TEN TO
11 \$15,000?

12 A. CORRECT.

13 Q. AND THEN PRESTWICK PARTNERS INC. MADE NO
14 INVESTMENT; IS THAT CORRECT?

15 A. I THINK THE CONTRIBUTION WAS MADE THROUGH
16 PRESTWICK PARTNERS, TEN TO 15,000.

17 Q. SO THEY MADE THAT TEN TO \$15,000?

18 A. CORRECT.

19 Q. OKAY. AND THEN THESE OTHER -- LET'S JUST GO
20 DOWN TO MAKE SURE. SO DON BEAM YOU SAID WAS AN INVESTOR
21 IN THE PRIVATE PLACEMENT. DARRYL NICHOLSON AN INVESTOR
22 IN THE PRIVATE PLACEMENT. RICHARD MAY --

Cinelli.ROUGH~1.TXT

23 A. YES.

24 Q. AN INVESTOR IN THE PRIVATE PLACEMENT. THOMAS

25 COLOGNA --

ROUGH Draft - 58

NONCERTIFIED ROUGH DRAFT

1 A. YES.

2 Q. LET ME JUST FINISH MY QUESTION BEFORE YOU SAY

3 YES. HE WAS AN INVESTOR IN THE PRIVATE PLACEMENT?

4 A. YES.

5 Q. AND SOLSTICE VENTURE PARTNERS LLC?

6 A. SOLSTICE WAS A SEPARATE ENTITY THAT I

7 PARTICIPATED IN WHICH RECEIVED SOME FOUNDERS STOCK.

8 Q. SO WHO IS INVOLVED IN SOLSTICE VENTURE PARTNERS

9 LLC?

10 A. PRESTWICK PARTNERS AS WELL AS A THIRD

11 INDIVIDUAL WHO I WAS CONDUCTING SOME ADVISORY BUSINESS

12 WITH.

13 Q. WHO IS THAT?

14 A. SAAD, S-A-A-D, KHAN, K-H-A-N.

15 Q. SO IT WAS PRESTWICK PARTNERS INC., SAAD KHAN

16 AND YOURSELF THAT WERE --

17 A. PART OF SOLSTICE.

18 Q. PART OF SOLSTICE. AND YOU SAID SOLSTICE

19 RECEIVED FOUNDERS STOCK?

20 A. YES.

21 Q. AND THERE WAS NO CAPITAL CONTRIBUTION?

22 A. THAT'S CORRECT.

23 Q. DO YOU KNOW HOW MUCH FOUNDERS STOCK?

24 A. I THINK 2 OR 3 PERCENT.

25 Q. AND WHAT ABOUT VFINANCE INVESTMENTS?

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NONCERTIFIED ROUGH DRAFT

1 A. VFINANCE INVESTMENTS IS AN INVESTMENT BANKING

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2 FIRM BROKER DEALER WHERE BOTH SAAD KHAN AND I HELD OUR
3 SECURITIES LICENSES. AND VFINANCE ALSO EMPLOYED
4 DIRECTLY LARRY KNUTSON WHO WAS A GENTLEMAN THAT
5 INTRODUCED ME TO JACK PARSON IN THE BEGINNING OF THIS
6 WHOLE THING. AND FOR WHICH THEY RECEIVED SOME FOUNDERS
7 STOCK.

8 Q. AND HOW MUCH FOUNDERS STOCK DID THEY GET?

9 A. I THINK 2 OR 3 PERCENT.

10 Q. AND DID VFINANCE INVESTMENTS, DID IT GET ANY --
11 DID IT GIVE ANY CAPITAL TO --

12 A. NO, NO.

13 Q. AND DOES VFINANCE INVESTMENTS STILL EXIST?

14 A. YES.

15 Q. IT'S A NEW YORK ENTITY?

16 A. YES.

17 Q. AND YOU SAID THAT YOU STILL HOLD A BROKER'S
18 LICENSE THROUGH THAT ENTITY?

19 A. YES, I'M MOVING MY SECURITIES LICENSE TO A NEW
20 ENTITY.

21 Q. BUT CURRENTLY YOU HAVE IT THROUGH THAT?

22 A. YES.

23 Q. AND THEN FMP VINEYARD LLC?

24 A. THAT IS OWNED BY TOM PAVICH.

25 Q. DID THAT ENTITY CONTRIBUTE MONEY IN THE PRIVATE
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 60

1 PLACEMENT?

2 A. NO, IT DID NOT.

3 Q. DID IT GET STOCK IN FRESH 'N HEALTHY, INC.?

4 A. IT WAS TO GET STOCK, I DON'T BELIEVE MARK
5 WILLIAMS CONSUMMATED THAT.

6 Q. AND IT CONTRIBUTED NO MONEY, RIGHT?

7 A. THAT'S CORRECT.

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8 Q. WHAT ABOUT BUTTONWOOD OPTION LLC?

9 A. ALL -- BUTTONWOOD AND THE RESIDUAL NAMES ALL
10 WERE PARTICIPANTS IN THE PRIVATE PLACEMENT.

11 Q. SO BUTTONWOOD, DW LLC, M SOLAZZO TRUST 2002, P.
12 SOLAZZO TRUST 1998, GIBBONS FAMILY TRUST, BIXLER TRUST,
13 STEIGERWALD TRUST AND CARTER TRUST WERE ALL PARTICIPANTS
14 IN THE PRIVATE PLACEMENT?

15 A. THAT'S CORRECT.

16 Q. ARE THERE ANY OTHER NAMES THAT AREN'T LISTED
17 HERE THAT WERE PARTICIPANTS IN THE PRIVATE PLACEMENT?

18 A. I THINK THERE WERE PROBABLY ONE OR TWO OTHER
19 NAMES WHICH I CAN PROVIDE. BUT I DON'T HAVE THE
20 SHAREHOLDER LIST WITH ME.

21 Q. WERE YOU THE ONE THAT SOLICITED THE INVESTMENTS
22 IN THE PRIVATE PLACEMENT BY ALL OF THESE INDIVIDUALS OR
23 ENTITIES?

24 A. I FACILITATED.

25 Q. WHEN YOU SAY A FACILITATED, WHAT DO YOU MEAN?
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 61

1 A. MOST OF THEM WERE RELATIONS, WELL, TWO OF THE
2 ENTITIES, BUTTONWOOD AND ANOTHER GENTLEMAN WHO DID MAKE
3 AN INVESTMENT, WERE MONEY MANAGERS FOR THESE VARIOUS
4 ENTITIES, AND THROUGH DISCUSSIONS WITH MARK WILLIAMS AND
5 TO SOME EXTENT ME, WE WERE LOOKING TO RAISE A MILLION
6 1/2 DOLLARS. AND THESE INVESTORS STEPPED UP AND
7 INVESTED A MILLION 1/2.

8 Q. AND WERE ANY OF THESE INVESTORS REPAID --

9 A. NO.

10 Q. -- FOR THEIR INVESTMENT?

11 A. NO.

12 Q. DID THEY GET ANY DIVIDENDS?

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13 A. NO.

14 Q. AND DID YOU PROVIDE ANY PERSONAL GUARANTEES TO
15 COMERICA BANK?

16 A. YES.

17 Q. AND YOU AS AN INDIVIDUAL OR YOUR ENTITIES, WHO
18 PROVIDED THOSE GUARANTEES?

19 A. JOHN GIBBONS PROVIDED A \$250,000 GUARANTEE AT
20 THE INCEPTION, AND THEN WHEN THE BANK WANTED TO
21 NEGOTIATE A FORBEARANCE AGREEMENT IN THE FALL OF 2006,
22 BOTH MARK WILLIAMS AND I WERE REQUIRED TO SIGN A
23 \$1 MILLION GUARANTEE EACH.

24 Q. ANYBODY ELSE THAT GAVE ANY PERSONAL GUARANTEES?

25 A. NO.

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NONCERTIFIED ROUGH DRAFT

1 Q. AND JOHN GIBBONS' PERSONAL GUARANTEE IS STILL
2 OUT THERE?

3 A. I BELIEVE SO, YES.

4 Q. AND DID MARK WILLIAMS HAVE ASSETS SUFFICIENT TO
5 BACK THE \$1 MILLION GUARANTEE?

6 A. I DON'T BELIEVE SO. I'M NOT SURE.

7 Q. DID THE BANK REQUIRE ANY SHOWING THAT HE HAD
8 MONEY TO BACK THE GUARANTEE?

9 A. HE WAS REQUESTED TO SUBMIT A FINANCIAL
10 STATEMENT. I DID NOT SEE THAT. AND I DON'T KNOW
11 WHETHER HE SUBMITTED THAT.

12 Q. DID YOU HAVE TO SUBMIT A FINANCIAL STATEMENT?

13 A. YES, YES.

14 Q. WHO WERE THE DIRECTORS OF FRESH 'N HEALTHY,
15 INC.?

16 A. MARK WILLIAMS AND I AND THEN SANTOS MARTINEZ.
17 BUT MR. MARTINEZ, HE WAS GIVEN THE RIGHT TO SIT ON THE
18 BOARD, HE ATTENDED ONE OF THE -- THE INITIAL BOARD

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19 MEETING. AND I BELIEVE, YOU KNOW, THIS WAS PART AND
20 PARCEL OF HIS SERIES A. BUT I WOULD IMAGINE HE CONTENTS
21 THAT HE'S NOT ON THE BOARD OF THIS COMPANY.

22 Q. WHY WOULD HE SAY THAT?

23 A. PROBABLY TO DISTANCE HIMSELF FROM THE COMPANY.

24 Q. SO THERE WAS ONE BOARD MEETING THAT YOU KNOW HE
25 ATTENDED AND AFTER THAT HE NEVER ATTENDED ED AGAIN?

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NONCERTIFIED ROUGH DRAFT

1 A. THAT'S CORRECT.

2 Q. WAS HE INVITED TO ATTEND?

3 A. WE DIDN'T HAVE DIRECT BOARD MEETINGS AFTER
4 THAT. AND THAT WAS PROBABLY IN MAY.

5 Q. MAY OF 2007?

6 A. THAT'S CORRECT.

7 Q. AND AFTER THAT, YOU DON'T RECALL ANY OTHER
8 BOARD MEETINGS?

9 A. THAT'S CORRECT.

10 Q. WHAT ABOUT SHAREHOLDER MEETINGS?

11 A. WE DID NOT HAVE ANY SHAREHOLDER MEETINGS. I
12 PROVIDED A BRIEF TO THE SHAREHOLDERS ON A PERIODIC BASIS
13 THROUGH A LETTER.

14 Q. WHEN THE SHAREHOLDERS WERE SOLICITED IN THE
15 PRIVATE PLACEMENT FOR INVESTMENT, WHAT KIND OF OFFER
16 MATERIALS DID YOU PROVIDE TO THEM?

17 A. LARGELY POWERPOINT PRESENTATION.

18 MS. ANASTASSIOU: LET'S MARK THIS AS SC NO. 3.

19 (EXHIBIT SC-3 MARKED.)

20 BY MS. ANASTASSIOU:

21 Q. AND I HAVE HANDED YOU A PRESENTATION THAT'S
22 CALLED FRESH 'N HEALTHY, THE NEXT FRONTIER OF HEALTH AND
23 NUTRITION JULY 2007. AND IT'S BATES MARKED SNO 59

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24 THROUGH SNO 79. AND IF YOU CAN TAKE AN OPPORTUNITY TO
25 LOOK AT THAT. LET ME KNOW WHEN YOU ARE READY FOR
NONCERTIFIED ROUGH DRAFT

1 QUESTIONS.

2 A. SURE. GO AHEAD.

3 Q. OKAY. AND THIS PARTICULAR POWERPOINT

4 PRESENTATION WAS PROVIDED TO SNOW SEED IN CONNECTION

5 WITH NEGOTIATIONS BETWEEN SNOW SEED AND FRESH 'N

6 HEALTHY. IS THIS THE POWERPOINT PRESENTATION THAT YOU

7 ARE REFERRING TO?

8 A. I WOULD IMAGINE SO.

9 Q. OKAY. COULD YOU LOOK AT IT AND LET ME KNOW FOR
10 SURE?

11 A. THERE WERE A SERIES ADVISE OF POWERPOINT
12 PRESENTATIONS. IT WAS CONSTANTLY BEING UPDATED. THIS
13 WAS CERTAINLY ONE OF THE PRESENTATIONS THAT WERE, YOU
14 KNOW, THAT WAS BEING DISCUSSED.

15 Q. WHO PREPARED THESE POWERPOINT PRESENTATIONS?

16 A. I PREPARED THEM WITH INPUT FROM THE MANAGEMENT
17 TEAM.

18 Q. AND WHO WOULD YOU DEFINE AS THE MANAGEMENT
19 TEAM?

20 A. MARK WILLIAMS, MARK MCCORMICK, TOM PAVICH, CHAD
21 HAGEN.

22 Q. WHO WERE THE OFFICERS OF THE COMPANY?

23 A. JUST WHO I NAMED.

24 Q. WILLIAMS, MCCORMICK, PAVICH, HAGEN AND
25 YOURSELF?

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NONCERTIFIED ROUGH DRAFT

1 A. I WAS NEVER AN OFFICER, I WAS THE DIRECTOR.

2 (OFF THE RECORD.)

3 BY MS. ANASTASSIOU:

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4 Q. SO YOU SAID THAT YOU WERE NEVER AN OFFICER ONLY
5 A DIRECTOR?

6 A. YES.

7 Q. SO MR. WILLIAMS WAS AN OFFICER, WHAT WAS HIS
8 TITLE?

9 A. CEO. PRESIDENT AND CEO.

10 Q. AND MR. MCCORMICK?

11 A. CHIEF FINANCIAL OFFICER.

12 Q. AND MR. MCCORMICK, HE LEFT FRESH 'N HEALTHY
13 SOMETIME IN MID-2007, CORRECT?

14 A. THAT'S CORRECT.

15 Q. SO WHO TOOK OVER HIS POSITION AS CFO WHEN HE
16 LEFT?

17 A. HE LEFT PROBABLY IN AUGUST, AND THE COMPANY HAD
18 HIRED AN OUTSIDE RENT-A-CONTROLLER FROM AN OUTSIDE FIRM.
19 I CAN'T REMEMBER THE FIRM.

20 Q. WHAT WAS THE NAME OF THE CONTROLLER?

21 A. AJ CHANDRA.

22 Q. SPELL THAT?

23 A. C-H-A-N-D-R-A.

24 Q. THEN HE WAS A LEASED EMPLOYEE?

25 A. YES.

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NONCERTIFIED ROUGH DRAFT

1 Q. AND HOW LONG DID HE WORK FOR FRESH 'N HEALTHY,
2 AJ CHANDRA?

3 A. UP UNTIL PROBABLY EARLY -- OR JANUARY.

4 Q. OF 2008?

5 A. CORRECT.

6 Q. AND THEN YOU SAID MR. PAVICH WAS AN OFFICER?

7 A. YES.

8 Q. WHAT WAS HIS TITLE?

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9 A. I THINK VICE PRESIDENT OF SALES. I'M NOT SURE
10 WHETHER HE WAS A SALARIED EMPLOYEE OR COMPENSATED AS A
11 CONSULTANT. AND, IN FACT, I DON'T KNOW WHETHER OR NOT
12 ANY OF THE MANAGEMENT TEAM WAS COMPENSATED AS SALARIED
13 EMPLOYEES OR AS CONSULTANTS.

14 Q. YOU SAID MR. WILLIAMS I THOUGHT YOU SAID HAD A
15 \$240,000 SALARY?

16 A. THAT'S CORRECT.

17 Q. SO HE DID GET A SALARY?

18 A. YES, HE DID.

19 Q. BUT OTHER THAN THAT YOU DON'T KNOW IF ANYONE
20 ELSE DID?

21 A. THEY WERE ALL COMPENSATED, WHETHER OR NOT THEY
22 WERE COMPENSATED AS SALARIED EMPLOYEES OR CONSULTANTS, I
23 COULDN'T TELL YOU. MCCORMICK WAS RUNNING ALL THE BOOKS.

24 Q. DO YOU KNOW WHAT MR. MCCORMICK'S RATE OF
25 COMPENSATION WAS?

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NONCERTIFIED ROUGH DRAFT

1 A. I BELIEVE IT WAS A HUNDRED AND 80,000.

2 Q. A YEAR?

3 A. YES.

4 Q. AND THEN YOU SAID THAT HIS SALARY WAS SUPPOSED
5 TO START IN FEBRUARY OF 2007 BUT YOU BELIEVE HE WAS PAID
6 FOR PRIOR TO THAT?

7 A. THAT'S CORRECT.

8 Q. AND YOU DON'T KNOW HOW MUCH PRIOR?

9 A. NO, I'M STILL TRYING TO FIGURE OUT HOW MANY
10 CHECKS WERE WRITTEN.

11 Q. AND HAGEN, WHAT WAS HIS POSITION AS AN OFFICER
12 OF THE COMPANY?

13 A. VICE PRESIDENT OF MARKETING.

14 Q. AND THEN DO YOU KNOW WHAT HIS COMPENSATION WAS?

Cinelli.ROUGH~1.TXT

15 A. NO, I DON'T, NO, I DON'T.

16 Q. AND WAS JACK PARSON AN OFFICER?

17 A. I BELIEVE FOR A PERIOD OF TIME. AND I THINK IT
18 WAS VP OF SPECIAL PROJECTS. AND THEN THERE WAS SOME
19 DIFFERENCE OF OPINION BETWEEN HE AND WILLIAMS AND I
20 BELIEVE HE BECAME A CONSULTANT IN SOME FASHION.

21 Q. AND WAS HE EVER, LIKE, EMPLOYED DAILY AT THE
22 COMPANY?

23 A. YEAH, HE WAS THERE DAILY.

24 Q. UNTIL WHAT PERIOD OF TIME?

25 A. PROBABLY MIDYEAR AND THEN HE HAD A SEPARATE
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 68

1 OFFICE THAT HE OPERATED OUT OF.

2 Q. TO MID-2007 ARE YOU SAYING HE WAS DAILY?

3 A. HE WAS DAILY AND THEN I THINK HE MOVED TO
4 SEPARATE OFFICES PROBABLY MIDYEAR. BUT HE WAS STILL
5 COMPENSATED I BELIEVE AS A CONSULTANT OR ADVISER TO
6 WILLIAMS.

7 Q. AND YOU DON'T KNOW WHAT THAT RATE OF
8 COMPENSATION WAS?

9 A. NO, I DO NOT.

10 Q. AND THEN DURING THIS WHOLE TIME PERIOD, YOU HAD
11 SAID THAT HE HAD THIS --

12 A. HE HAD DIVERSIFIED FOOD NETWORK.

13 Q. WAS HE INVOLVED IN THAT THE WHOLE TIME?

14 A. YES.

15 Q. AND THAT WAS A PRODUCE SALES COMPANY?

16 A. YES.

17 Q. AND WAS HE DOING SALES FOR THE COMPANY THE
18 WHOLE PERIOD IN WHICH FRESH 'N HEALTHY WAS IN OPERATION?

19 A. I BELIEVE SO.

Cinelli.ROUGH~1.TXT

20 Q. AND SO HE WAS GETTING COMPENSATED AS AN OFFICER
21 AND ALSO MAKING COMPENSATION AS A BROKER?

22 A. I BELIEVE SO.

23 Q. DO YOU KNOW WHAT THE TERMS OF THE ARRANGEMENTS
24 WERE BETWEEN DIVERSIFIED AND FRESH 'N HEALTHY?

25 A. NO, I DON'T.
NONCERTIFIED ROUGH DRAFT

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1 Q. WAS THERE A WRITTEN CONTRACT?

2 A. I DON'T KNOW. THAT WAS BETWEEN WILLIAMS,
3 MCCORMICK AND PARSON.

4 Q. GETTING BACK TO THIS POWERPOINT PRESENTATION,
5 YOU BELIEVE THAT SOMETHING SIMILAR TO THIS WAS THE
6 INFORMATION YOU USED TO SOLICIT INVESTMENT?

7 A. THAT'S CORRECT.

8 Q. AND DID YOU HAVE ANY FINANCIAL STATEMENTS THAT
9 YOU PROVIDED TO THE INVESTORS?

10 A. YEAH, THERE WERE SOME FINANCIALS, SOME
11 PROJECTIONS IN THE BACK.

12 Q. IN SNO 76?

13 A. UH-HUH.

14 Q. I GUESS THERE WAS -- 75 AND 76? ARE THOSE
15 PRIMARILY THE INFORMATION THAT WAS USED TO SOLICIT THE
16 INVESTORS?

17 A. I BELIEVE SO.

18 Q. AND YOU SAID THAT THIS DOCUMENT WAS UPDATED AND
19 CHANGED OCCASIONALLY?

20 A. THAT'S CORRECT.

21 Q. SO YOU ARE NOT SURE IF THIS WAS THE EXACT
22 DOCUMENT BUT IT WAS --

23 A. CLOSE, I AM SURE IT'S CLOSE THERETO.

24 Q. AND OTHER THAN THAT \$1.5 MILLION PRIVATE
25 PLACEMENT THAT YOU HAVE TESTIFIED TO, WERE THERE ANY

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Cinelli.ROUGH~1.TXT
NONCERTIFIED ROUGH DRAFT

1 OTHER EFFORTS TO RAISE MONEY FOR FRESH 'N HEALTHY?

2 A. YES.

3 Q. WHAT WERE THOSE?

4 A. TWO THINGS, RAISING ADDITIONAL EQUITY TO
5 FACILITATE THE ACQUISITION OF A SEPARATE COMPANY, WHICH
6 IS ALLUDED TO IN THE PROJECTIONS. AND THEN ALSO
7 DISCUSSIONS TO RAISE ADDITIONAL REAL ESTATE FUNDS.

8 Q. WERE THESE EVER ACCOMPLISHED OR --

9 A. NO, THEY WEREN'T.

10 Q. OKAY.

11 A. AND THE REASON --

12 Q. LET ME JUST GO. FIRST YOU SAID THAT YOU HAD
13 SOME EFFORTS TO RAISE ADDITIONAL EQUITY FOR ANOTHER
14 BUSINESS. WHAT WAS THAT BUSINESS?

15 A. BAY AREA HERBS AND SPECIALTIES.

16 Q. WHAT WAS BAY AREA HERBS AND SPECIALTIES?

17 A. BASICALLY A DISTRIBUTOR OF FRESH HERBS.

18 Q. THAT WAS ANOTHER ENTITY THAT WAS IN BUSINESS?

19 A. YES.

20 Q. SEPARATE AND APART FROM GOURMET VEG-PAQ?

21 A. THAT'S CORRECT.

22 Q. WAS IT ALSO OWNED BY SANTOS MARTINEZ?

23 A. NO, COMPLETELY SEPARATE ISSUE.

24 Q. AND YOU GOT INTO DISCUSSIONS WITH THEM BUT THAT
25 PURCHASE WAS NEVER CONSUMMATED?

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NONCERTIFIED ROUGH DRAFT

1 A. WE HAD SIGNED A LETTER OF INTENT, WE WERE IN
2 THE MIDST OF BOTH DUE DILIGENCE AND FUND-RAISING, AND
3 THAT WAS NOT CONSUMMATED LARGELY BECAUSE FIRST FRESH 'N
4 HEALTHY COULD NOT PRODUCE HISTORICAL FINANCIAL

Cinelli.ROUGH~1.TXT

5 STATEMENTS, AND THEN SECONDLY, ONCE WE -- OR ONCE FRESH
6 'N HEALTHY DID LARGELY THROUGH THE EFFORTS OF
7 MR. CHANDRA, THE RESULTS WERE PRETTY DISMAL.

8 Q. SO THEY BACKED OUT OF IT?

9 A. WE WERE HOLDING CONVERSATIONS WITH A NUMBER OF
10 PRIVATE EQUITY FUNDS WHO LIKED THE CONCEPT BUT WHEN THEY
11 SAW THE FRESH 'N HEALTHY NUMBERS, WELL, THEY WERE, YOU
12 KNOW, THEY WERE ANXIOUS TO SEE THE NUMBERS, WHICH I
13 DON'T BELIEVE FINANCIAL STATEMENTS WERE PRODUCED UNTIL
14 OCTOBER. AND THAT WAS UNDER CHANDRA. MR. MCCORMICK, HE
15 WAS LET GO LARGELY BECAUSE HE DIDN'T PUT THE FINANCIAL
16 RECORDS TOGETHER.

17 Q. WHAT DID THOSE FINANCIAL RECORDS SHOW,
18 OBVIOUSLY YOU ARE GOING TO PRODUCE THEM, DO YOU RECALL
19 WHAT THEY SHOWED?

20 A. THE FIRST INCOME STATEMENT THAT CAME OUT WAS
21 PROBABLY FOR THE MONTH OF AUGUST OR SEPTEMBER. AND IT
22 SHOWED THAT FRESH 'N HEALTHY HAD LOST PROBABLY 2 1/2 TO
23 \$3 MILLION FOR THE FIRST FIVE, SIX MONTHS OF OPERATION.

24 Q. AND THEN YOU SAID THERE WAS A DISCUSSION ABOUT
25 SOME REAL ESTATE FUNDING ALSO?

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NONCERTIFIED ROUGH DRAFT

1 A. YES.

2 Q. WHAT WAS THAT WITH RESPECT TO?

3 A. THAT WAS TO REFINANCE THE ORIGINAL FINANCING
4 FOR THE EL CENTRO FACILITY TO ARRANGE FINANCES FOR THE
5 HOLLISTER FACILITY, AND THEN ALSO TO ACQUIRE FARMLAND.

6 Q. WAS THAT -- THE HOLLISTER FACILITY AND FARMLAND
7 WAS GOING TO BE PURCHASED FROM SANTOS MARTINEZ?

8 A. THAT'S CORRECT.

9 Q. AND WHAT HAPPENED WITH THAT TRANSACTION?

10 A. THOSE CONVERSATIONS WERE EXHAUSTED LARGELY

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11 BECAUSE OF THE NUMBERS THAT WERE FINALLY PRODUCED BY
12 FRESH 'N HEALTHY.

13 Q. SO SANTOS SAID HE WASN'T INTERESTED IN GOING
14 FORWARD WITH IT?

15 A. SANTOS WANTED TO SELL THE COMPANY, WAS UNABLE
16 TO ARRANGE THE FINANCING LARGELY BECAUSE OF THE
17 PERFORMANCE OF FRESH 'N HEALTHY.

18 Q. SO WHO WERE YOU TALKING TO IN ORDER TO GET THE
19 FUNDING, THE REAL ESTATE FUNDING?

20 A. A NUMBER OF PRIVATE EQUITY FUNDS THAT
21 SPECIALIZE IN REAL ESTATE.

22 MS. ANASTASSIOU: LET'S MARK THIS AS SC NO. 4.

23 (EXHIBIT SC-4 MARKED.)

24 BY MS. ANASTASSIOU:

25 Q. I HAVE HANDED THE WITNESS A DOCUMENT THAT IS
ROUGH Draft - 73 NONCERTIFIED ROUGH DRAFT

1 MARKED SC NO. 4. IT'S BATES STAMP SNO 169, 170 AND 171.
2 AND IT CONSISTS OF SOME INFORMATION REGARDING AN
3 ENTITIES CALLED VFINANCE INC. AS WELL AS AN
4 ADVERTISEMENT BY VFINANCE INVESTMENTS INC. FOR AN
5 OFFERING \$10,500,000 OFFER FOR FRESH 'N HEALTHY. HAVE
6 YOU HAD AN OPPORTUNITY TO LOOK AT THIS DOCUMENT?

7 A. YES.

8 Q. OKAY. TURNING TO THE LAST PAGE OF THAT
9 REPORT --

10 A. YES.

11 Q. -- THAT YOU HAVE THE TOMBSTONE. WAS THAT
12 OFFERING EVER SOLICITED TO PEOPLE OR CAN YOU TELL ME
13 ABOUT THAT OFFERING, IS THAT SOMETHING THAT YOU WERE
14 INVOLVED WITH?

15 A. THAT WAS NEVER DONE. THIS IS THE FIRST TIME

Cinelli.ROUGH~1.TXT

16 I'VE SEEN THIS. IT WASN'T AN INITIAL PUBLIC OFFERING.

17 IT WASN'T A FINANCING. IT WAS BASICALLY -- IT WAS A

18 PRIVATE -- IT WAS FUND-RAISING SUCH AS I DESCRIBED, YOU

19 KNOW, COAMERICA, SOME PRIVATE INVESTORS, SELLER

20 FINANCING. THE 10.5 MILLION WAS PROBABLY THE

21 TRANSACTION AMOUNT, BUT THERE WAS NO SECURITIES OFFERING

22 HERE, IT'S AN INCORRECT ADVERTISEMENT.

23 Q. SO WHAT IS THIS, IT'S LIKE A -- IT LOOKS TO ME

24 KIND OF LIKE A TOMBSTONE OR A --

25 A. IT IS A TOMBSTONE.

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NONCERTIFIED ROUGH DRAFT

1 Q. OKAY. AND SO THE TOMBSTONE WAS JUST A

2 REPRESENTATION OF --

3 A. A TRANSACTION THAT WAS CONSUMMATED.

4 Q. WITH --

5 A. AND BECAUSE MY BROKER OR MY SECURITIES LICENSE

6 RESTED WITH THE FINANCE, THEY INCLUDED THAT AS A

7 TRANSACTION THAT, YOU KNOW, HAD THE INTEREST FINANCING

8 ON IT. WHAT WAS DESCRIBED HERE IN TERMS OF A DEALER

9 IN THE INITIAL PUBLIC OFFERING IS ABSOLUTELY INCORRECT.

10 Q. SO THERE WAS NO IPO, THIS IS JUST THE

11 TRANSACTION YOU PREVIOUSLY DESCRIBED TO ME WITH SANTOS

12 AND --

13 A. THAT'S CORRECT.

14 Q. -- THE PURCHASE OF THE EL CENTRO FACILITY?

15 A. THAT'S CORRECT. AND I HAVEN'T SEEN THIS THING,

16 SO. I DO NOT KNOW IF IT WAS PUBLISHED.

17 Q. AND GOING BACK TO THE VFINANCE, IT LISTS HERE

18 AS A HEADQUARTERS OF THAT OPERATION AS BOCA RATON,

19 FLORIDA.

20 A. YES.

21 Q. AND SO THERE'S -- THERE IS ALSO AN OFFICE

Cinelli.ROUGH~1.TXT

22 LISTED HERE IN NEW YORK?

23 A. THAT'S CORRECT.

24 Q. OKAY. SO THERE'S TWO OFFICES?

25 A. THERE IS A MULTITUDE OF OFFICES. VFINANCE IS A
ROUGH Draft - 75 NONCERTIFIED ROUGH DRAFT

1 REGISTERED BROKER DEALER, IT HAS A RETAIL BROKERAGE

2 BUSINESS, IT HAS AN INVESTMENT BANKING DIVISION.

3 INVESTMENT BANKING DIVISION IS LARGELY CONTRIVED OF A

4 VERY FEW SALARIED EMPLOYEES, YOU KNOW, MOSTLY OTHER

5 BANKERS HAVE AN INDEPENDENT CONTRACTOR RELATIONSHIP WITH

6 THE FINANCE. I WAS ONE OF THOSE BANKERS AND ESSENTIALLY

7 THEY HELD MY SECURITIES LICENSES FOR WHICH ANY FEES THAT

8 I WOULD GENERATE IN INVESTMENT BANK ACTIVITIES THEY

9 WOULD PARTICIPATE.

10 Q. ARE YOU AN OWNER IN THAT COMPANY, IN VFINANCE

11 INC.?

12 A. I'VE GOT DE MINIMUS OPTIONS.

13 Q. YOU SAID YOU ARE LIKE AN INDEPENDENT CONTRACTOR

14 WITH THEM?

15 A. YES, BUT WE HAVE SEVERED THAT RELATIONSHIP

16 RECENTLY.

17 Q. WHEN DID THAT HAPPEN?

18 A. OVER THE LAST MONTH.

19 Q. WHAT WAS THE REASON FOR THAT?

20 A. THE RELATIONSHIP, IT WASN'T A WIN-WIN

21 SITUATION.

22 Q. WHAT WAS THE REASON FOR THE SEVERANCE, WAS IT

23 YOUR INITIATIVE OR --

24 A. IT WAS BOTH, IT WAS BOTH. THEY WERE IN NEW

25 YORK, THEY DIDN'T SHARE BUSINESS OPPORTUNITIES, I WAS
ROUGH Draft - 76 NONCERTIFIED ROUGH DRAFT

Cinelli.ROUGH~1.TXT

1 CONSUMED WITH THIS SILLY FRESH 'N HEALTHY SITUATION,
2 WHICH SUCKED UP A LOT OF MY TIME, SO FROM AN INVESTMENT
3 BANKING PRODUCTION, I DIDN'T PRODUCE, YOU KNOW, FEES FOR
4 THEM, AND SO IT WAS A, AS I SAID, IT WASN'T A
5 COMPLEMENTARY RELATIONSHIP.

6 Q. HOW LONG DID YOU HAVE THAT RELATION WITH THEM
7 FOR?

8 A. I PROBABLY HAD -- ABOUT THREE YEARS I HAD MY
9 SECURITIES LICENSE WITH THEM.

10 Q. AND SO THEN YOU HAVE DISCUSSED WITH ME ALL THE
11 EFFORTS OF FUND-RAISING THAT YOU RECALL --

12 A. YES.

13 Q. -- WITH RESPECT TO FRESH 'N HEALTHY, THERE WAS
14 THE \$1.5 MILLION PRIVATE PLACEMENT, AND THEN THE TWO
15 OTHER FUNDING OPPORTUNITIES THAT DIDN'T HAPPEN, THE REAL
16 ESTATE FUNDING AND THE HERBS AND SPECIALTY FUNDING,
17 CORRECT?

18 A. WE WERE LOOKING ON THE HERB BUSINESS, WE WERE
19 LOOKING TO RAISE ANOTHER \$10 MILLION OF EQUITY, THREE
20 QUARTERS OF WHICH WAS DEVOTED TO THE ACQUISITION, BAY
21 AREA HERBS, THE REST WOULD JUST BE WORKING CAPITAL FOR
22 FRESH 'N HEALTHY AT LARGE. AND THEN WE WERE LOOKING TO
23 RAISE, OH, I GUESS 15 TO \$20 MILLION FOR THE REAL
24 ESTATE.

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25 Q. AND THAT WAS ALL YOU HAD PERSONALLY THAT WAS --
NONCERTIFIED ROUGH DRAFT

1 A. I WAS DRIVING THAT PROCESS. MY ROLE WITHIN THE
2 COMPANY WAS SORT OF AN OUTSIDE ADVISER LOOKING AT
3 EXTERNAL OPPORTUNITIES. I WAS NOT INVOLVED IN THE
4 DAY-TO-DAY MANAGEMENT OR -- INFORMATION I RECEIVED FROM
5 THE COMPANY WAS GIVEN BY MCCORMICK AND WILLIAMS. WHICH
6 WAS USED LARGELY FOR PRESENTATION PURPOSES.

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7 Q. AND WHAT PRIOR EXPERIENCE HAD WILLIAMS HAD IN
8 RUNNING A PRODUCE COMPANY PRIOR TO BECOMING THE CEO AND
9 PRESIDENT OF FRESH 'N HEALTHY?

10 A. HE WAS FORMERLY THE CEO OF A SUPERMARKET AND
11 WHOLESALE DISTRIBUTOR BY THE NAME OF CARR GOTTSTEIN
12 FOODS UP IN ALASKA. AND UNDER MARK, THE COMPANY RAMPED
13 UP FROM ABOUT 50 MILLION IN REVENUES TO ABOUT
14 800 MILLION. THEY DID A MANAGEMENT BUYOUT WITH ONE OF
15 THE BIG PRIVATE EQUITY FIRMS. SUBSEQUENTLY DID A
16 SUCCESSFUL INITIAL PUBLIC OFFERING AND THEN EVENTUALLY
17 SOLD TO SAFEWAY.

18 Q. BUT YET YOU SAID THAT -- WHEN I ASKED YOU IF HE
19 HAD A MILLION DOLLARS OF ASSETS TO BACK UP HIS GUARANTEE
20 YOU SAID YOU DIDN'T THINK SO?

21 A. I DON'T BELIEVE SO.

22 Q. AND SO IF HE HAD --

23 A. I HAVE NO IDEA.

24 Q. IF HE DID THAT SUCCESSFUL MANAGEMENT BUYOUT AND
25 ALL THAT RAMP-UP, WHAT HAPPENED TO HIS MONEY?
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 78

1 A. I COULDN'T TELL YOU.

2 Q. AND HOW DID YOU MEET MR. WILLIAMS, THROUGH MR.
3 PARSON?

4 A. NO, NO, NO, MR. WILLIAMS AND I GOT TO KNOW EACH
5 OTHER PROBABLY TEN YEARS AGO. I WAS ADVISING A SEPARATE
6 SUPERMARKET CHAIN DOWN IN THE CENTRAL VALLEY BY THE NAME
7 OF SAVE MART SUPERMARKETS, THEIR CFO SAVE MART TOOK A
8 JOB AT CARR GOTTSTEIN IN ALASKA AND THAT CFO ASKED ME TO
9 COME UP TO ADVISE CARR GOTTSTEIN IN SOME TRANSACTIONAL
10 WORK.

11 Q. AND THAT'S HOW YOU MET MR. WILLIAMS?

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12 A. THAT'S CORRECT.

13 Q. AND NOW MR. WILLIAMS HAS JUST SKIPPED OUT TO
14 COSTA RICA?

15 A. THAT'S THE LAST I HEARD.

16 Q. DID HE EXPLAIN TO YOU WHY HE HAD GONE TO COSTA
17 RICA?

18 A. NO.

19 Q. SO YOU HAVE NO IDEA OF WHAT HIS INVOLVEMENT IS
20 THERE?

21 A. NO.

22 Q. WERE YOU EVER AWARE OF MR. WILLIAMS HAVING A
23 GIRLFRIEND NAMED SUE DAVIS?

24 A. YES.

25 Q. AND WHAT DID YOU KNOW ABOUT THEIR RELATIONSHIP?
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 79

1 A. AS FAR AS I, KNOW THEY WERE ENGAGED AND THEY
2 WERE LIVING TOGETHER DOWN IN ARIZONA SOMEWHERE.

3 Q. DO YOU KNOW WHAT HAPPENED TO THAT RELATIONSHIP?

4 A. NO, I DON'T.

5 Q. DO YOU KNOW IF MR. WILLIAMS OWNS ANY REAL
6 PROPERTY?

7 A. I ASSUME THAT HE OWNED HIS HOME DOWN IN
8 ARIZONA, BUT I'M NOT SURE.

9 Q. DID YOU EVER GO TO THE HOME IN ARIZONA?

10 A. I DON'T KNOW IF IT WAS THE SAME HOME, I DID
11 VISIT HIM TEN YEARS AGO.

12 Q. WAS SUE DAVIS THERE OR SOMEBODY ELSE?

13 A. I COULDN'T RECALL.

14 Q. AND SO YOU HAVEN'T BEEN TO HIS PLACE IN ARIZONA
15 FOR ABOUT TEN YEARS?

16 A. THAT'S CORRECT.

17 Q. AND WHEN MR. WILLIAMS WAS WORKING FOR FRESH 'N
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Cinelli.ROUGH~1.TXT

18 HEALTHY, WHERE WAS HE RESIDING?

19 A. I THINK HE MAINTAINED HIS RESIDENCE STILL DOWN
20 IN ARIZONA BUT HE WAS LEASING A CONDO I THINK SOMEWHERE
21 IN MONTEREY, OF WHICH THE COMPANY WAS PAYING FOR.

22 Q. SO THE COMPANY PAID FOR THE CONDO IN MONTEREY?

23 A. THAT'S CORRECT.

24 MS. ANASTASSIOU: LET'S MARK THIS AS SC NO. 5.

25 (EXHIBIT SC-5 MARKED.)

□ Rough Draft - 80

NONCERTIFIED ROUGH DRAFT

1 BY MS. ANASTASSIOU:

2 Q. I HAVE JUST HANDED YOU A DOCUMENT MARKED SC
3 NO. 5 AND IT'S LABELED SNO 46. AND THIS IS A DOCUMENT
4 THAT WAS PROVIDED TO SNOW SEED BY YOURSELF IN CONNECTION
5 WITH NEGOTIATIONS RELATING TO THE DEBT. IF YOU CAN TAKE
6 AN OPPORTUNITY TO TAKE A LOOK AT THAT, LET ME KNOW WHEN
7 YOU ARE READY FOR QUESTIONS.

8 A. I'M READY.

9 Q. NOW, THIS PARTICULAR DOCUMENT SHOWS A PRETAX
10 LOSS FOR JULY OF 2007 IN THE AMOUNT OF \$372,000. DO YOU
11 SEE THAT?

12 A. UH-HUH.

13 Q. AND IT SHOWS A PRETAX LOSS FOR AUGUST OF
14 211,000. DO YOU SEE THAT?

15 A. UH-HUH.

16 Q. NOW, THAT TO ME ADDS UP TO SOMETHING LIKE A
17 LITTLE LESS THAN \$600,000 IN LOSSES FOR THOSE TWO
18 MONTHS, CORRECT?

19 A. UH-HUH.

20 Q. AND THEN YOU HAD SAID THOUGH PREVIOUSLY WHEN WE
21 WERE TALKING THAT ACTUALLY FRESH 'N HEALTHY DURING THE
22 INITIAL MONTHS OF ITS OPERATIONS HAD SUBSTANTIAL GREATER

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23 LOSSES THAN THAT.

24 A. UH-HUH.

25 Q. AND WHEN WERE THOSE LOSSES INCURRED, IN THE
ROUGH Draft - 81 NONCERTIFIED ROUGH DRAFT

1 MARCH, APRIL, MAY?

2 A. WHAT HAPPENED, FROM AN INFORMATION STANDPOINT,
3 IS THAT UNDER MARK MCCORMICK, NO FINANCIAL STATEMENTS
4 WERE PRODUCED. SO WE REALLY -- WE DIDN'T HAVE ANY
5 NUMBERS FROM MARCH, APRIL, MAY, JUNE, JULY, AUGUST,
6 SEPTEMBER. AJ CHANDRA CAME IN PROBABLY IN OCTOBER, LATE
7 OCTOBER, AND HAD TO GO THROUGH ALL THE BOOKS AND RECORDS
8 AS WELL AS HE COULD TO ESTABLISH THE HISTORICAL
9 FINANCIAL STATEMENTS FROM THE BEGINNING OF FRESH 'N
10 HEALTHY. IN FACT, BEYOND THAT TO THE BEGINNING OF THE
11 YEAR, WHICH WOULD BE THREE MONTHS UNDER SANTOS MARTINEZ
12 OWNERSHIP. AT THE TIME OF THIS STATEMENT, I BELIEVE AJ
13 HAD ONLY GOTTEN BACK AS FAR AS JULY. HE HAD NOT
14 FINISHED UP THE PRIOR MONTHS. WHEN THE PRIOR MONTHS DID
15 COME OUT, IT SHOWED THAT I THINK MAY, JUNE THERE WERE,
16 YOU KNOW, MILLION DOLLAR LOSSES. AND, AGAIN, THESE
17 NUMBERS WERE PROVIDED BY AJ BASED ON THE INFORMATION
18 THAT HE ASSEMBLED FOR THESE MONTHS.

19 Q. WHAT ABOUT HIS PROJECTED BUDGET SHOWING A
20 TURNAROUND FOR OCTOBER, NOVEMBER AND DECEMBER?

21 A. THOSE WERE PROVIDED BY WILLIAMS.

22 Q. AND DID THAT TURNAROUND ACTUALLY HAPPEN?

23 A. NO, NO. I BELIEVE OCTOBER WAS SORT OF
24 BREAK-EVEN AND NOVEMBER AND DECEMBER WERE I BELIEVE
25 DISMAL. I DON'T BELIEVE THAT AJ -- I THINK THE LAST
ROUGH Draft - 82 NONCERTIFIED ROUGH DRAFT

1 MONTH HE ACTUALLY PUT THE BOOKS TOGETHER WAS EITHER
2 OCTOBER OR NOVEMBER.

Cinelli.ROUGH~1.TXT

3 Q. AND THEN WHO DID IT AFTERWARDS?

4 A. THAT WAS IT.

5 Q. AND THEN THE COMPANY JUST SHUT DOWN?

6 A. CORRECT.

7 Q. WHO MADE THE DECISION TO SHUT DOWN THE COMPANY?

8 A. THE BANK. COMERICA.

9 Q. AND COMERICA BANK JUST ONE DAY SAID, HEY, WE'RE
10 SHUTTING YOU DOWN?

11 A. YEAH, THEY DIDN'T WANT TO INCUR ANY FURTHER
12 LIABILITIES.

13 Q. WHAT FURTHER LIABILITIES WERE THEY INCURRING?

14 A. WELL, THERE WERE PAYABLES THAT WERE INCURRED
15 AND THERE WAS A SERIES OF LAWSUITS AND SO THE
16 COMBINATION OF BURBANK AND COMERICA INDICATED THAT --

17 Q. BURBANK?

18 A. RUSS BURBANK, THE ADVISER.

19 Q. WHEN DID RUSS BURBANK START BEING AN ADVICE-ER
20 TO FRESH 'N HEALTHY?

21 A. SEPTEMBER, OCTOBER.

22 Q. AND HE WAS -- YOU WERE TOLD BY COMERICA BANK
23 THAT MR. BURBANK SHOULD BECOME INVOLVED IN FRESH 'N
24 HEALTHY?

25 A. YEAH, THEY REQUIRED THE COMPANY TO HIRE A
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 83

1 TURNAROUND ADVISER. AND THEY GAVE US TWO OPTIONS, AND
2 WE SELECTED BURBANK.

3 Q. WHO WAS THE OTHER OPTION?

4 A. SOME GENTLEMAN DOWN IN THE CENTRAL VALLEY.

5 Q. WHAT EXPERIENCE DID MR. BURR BURR HAVE WITH
6 PRODUCE COMPANIES PRIOR TO WORKING FOR FRESH 'N HEALTHY?

7 A. HE HAD INDICATED HE HAD DONE SOME WORK WITH

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8 FOOD AND PRODUCE COMPANIES, BUT FROM MY RECOLLECTION, HE
9 WASN'T TREMENDOUSLY LONG IN THAT EXPERIENCE.

10 Q. AND YOU HAVE NO SPECIFIC RECOLLECTION OF ANY
11 FARMING COMPANIES HE HAD?

12 A. I HAVE NO SPECIFIC RECOLLECTION, NO.

13 Q. WHAT WAS -- WHAT WERE THE TERMS OF HIS
14 RETENTION, WAS HE BEING PAID?

15 A. HE WAS GETTING PAID I THINK 495 AN HOUR. AND
16 HE'S BEEN PAID INCREDIBLE AMOUNTS OF MONEY SINCE COMING
17 ON BOARD. HE'S HAD GOT TO BE PUSHING A HUNDRED
18 THOUSAND.

19 Q. AND THEN YOU SAID THAT ALSO COMERICA REQUIRED
20 FRESH 'N HEALTHY TO RETAIN MURRAY AND MURRAY?

21 A. THEY REQUESTED THAT WE RETAIN COUNSEL. I DID
22 NOT HAVE ANY PREVIOUS RELATIONSHIP WITH MURRAY AND
23 MURRAY, I BELIEVE BURBANK WAS THE ONE THAT BROUGHT
24 MURRAY AND MURRAY INTO THE EQUATION.

25 Q. AND DO YOU KNOW WHAT THE TERMS OF THE
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 84

1 ARRANGEMENT IS WITH MURRAY & MURRAY?

2 A. AN HOURLY BASIS.

3 Q. AND WHAT ARE THEIR HOURLY RATES?

4 A. I WOULD ASSUME BETWEEN FOUR AND FIVE HUNDRED AN
5 HOUR FOR STEVE O'NEILL, WHO IS THE MAIN ATTORNEY. I
6 THINK TO DATE THE BILLINGS HAVE BEEN JUST UNDER 50,000.

7 Q. AND FRESH 'N HEALTHY HAS BEEN MAKING TIMELY
8 PAYMENTS TO THESE TWO ENTITIES?

9 A. THE BANK HAS CONTROL OF THE BANK ACCOUNT. AND
10 THEY HAVE BEEN MAKING THE PAYMENTS ON BEHALF OF FRESH 'N
11 HEALTHY.

12 Q. YOU SAID THAT THE BANK WANTED TO STOP INCURRING
13 LIABILITIES. I MEAN, IF THEY HAD A LINE OF CREDIT THAT

Cinelli.ROUGH~1.TXT

14 WAS LIMITED TO A 1.5 MILLION TERM LOAN THAT WAS ALREADY
15 OUT THERE, WHAT WERE THEIR ADDITIONAL LIABILITIES THAT
16 THEY WERE ACCRUING?

17 A. THEY WEREN'T ACCRUING, BUT THEY SAW THAT EVERY
18 MONTH THE COMPANY CONTINUED TO LOSE MONEY. THEY BELIEVE
19 THAT THE RECEIVABLE -- THEY SAW THE RECEIVABLE LEVEL
20 DIMINISHING. AND SO I GUESS THEY BELIEVED THAT THEIR
21 COLLATERAL POSITION WAS DIMINISHING.

22 Q. DID ANY OF THE OFFICERS OR DIRECTORS OF FRESH
23 'N HEALTHY HAVE ANY SAY IN THE DECISION TO CLOSE DOWN OR
24 WAS IT JUST COMERICA JUST DEMANDED THAT IT SHUT DOWN?

25 A. I WOULD SAY THE LATTER. I WAS WORKING ON AS
Rough Draft - 85 NONCERTIFIED ROUGH DRAFT

1 WAS WILLIAMS IN SOME RESPECT A COUPLE THIRD-PARTY JOINT
2 VENTURES TO SUSTAIN THE BUSINESS. BUT AT THE
3 RECOMMENDATION OF BURBANK IN CONSULTATION WITH THE BANK,
4 THEY BASICALLY PULLED THE TRIGGER.

5 Q. SO THEY MADE THE DECISION TO SHUT IT DOWN, IT
6 WASN'T THERE WAS A DIRECTORS MEETING OR SHAREHOLDERS
7 MEETING TO --

8 A. NO. THEY SUGGESTED TO MURRAY AND MURRAY AND I
9 BELIEVE THAT I -- THEY ASKED ME TO PUT TOGETHER A
10 CORPORATE RESOLUTION AUTHORIZING THE WIND-DOWN, THE
11 ORDERLY WIND DOWN OF THE BUSINESS.

12 Q. SO THEY REQUESTED THAT YOU DO A CORPORATE
13 RESOLUTION?

14 A. CORRECT.

15 Q. DID YOU DO ONE?

16 A. I BELIEVE I DID SIGN ONE.

17 Q. AND YOU WERE THE ONLY ONE THAT SIGNED IT?

18 A. I BELIEVE SO.

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19 Q. NOBODY ELSE SIGNED IT?

20 A. NO. AND IT WAS DRAFTED -- I THINK IT WAS
21 DRAFTED BY MURRAY & MURRAY.

22 Q. AND DO YOU HAVE THAT CORPORATE RESOLUTION?

23 A. I CAN GET THAT FROM MURRAY & MURRAY.

24 Q. THAT'S PART OF THE DOCUMENTS THAT YOU INTEND TO
25 PRODUCE, CORRECT?

□ Rough Draft - 86

NONCERTIFIED ROUGH DRAFT

1 A. UH-HUH.

2 Q. WHEN WAS THE DECISION ACTUALLY MADE TO SHUT
3 DOWN THE COMPANY?

4 A. PROBABLY NOVEMBER OR DECEMBER.

5 Q. YOU DON'T REMEMBER SPECIFICALLY?

6 A. NO.

7 Q. WAS IT THE DATE OF THE RESOLUTION OR --

8 A. PRIOR TO THAT.

9 Q. PRIOR TO THE DATE OF THE RESOLUTION?

10 A. UH-HUH.

11 Q. WHAT INVOLVEMENT DID WILLIAMS HAVE IN THE
12 DECISION TO SHUT DOWN THE COMPANY?

13 A. YOU KNOW, HE HAD SUGGESTED THAT THE COMPANY
14 NEEDED MORE CASH TO SUSTAIN ITSELF. AND WITHOUT THAT
15 CASH, YOU KNOW, HE WAS THROWING IN THE TOWEL. THE
16 CHALLENGE, AS I MENTIONED BEFORE WAS, INITIALLY WE
17 DIDN'T HAVE ANY FINANCIAL INFORMATION COMING OUT OF THE
18 COMPANY UNTIL CHANDRA CAME IN, AND THEN WHEN THE NUMBERS
19 STARTED BEING PRODUCED, THE NUMBERS WERE PRETTY DISMAL,
20 WHICH CREATED A PROBLEM FOR ADDITIONAL CAPITAL COMING
21 IN.

22 Q. AND SO WHEN DID WILLIAMS SAY THAT HE WAS
23 THROWING IN THE TOWEL SO TO SPEAK?

24 A. PROBABLY DECEMBER, NOVEMBER, DECEMBER. THE

Cinelli.ROUGH~1.TXT

25 BANK ASKED HIM TO ASSIST IN THE ORDERLY WIND DOWN. HE
NONCERTIFIED ROUGH DRAFT

1 ELECTED NOT TO BECAUSE HE WASN'T GOING TO BE
2 COMPENSATED.

3 Q. SO THEY ASKED HIM TO ASSIST IN THE ORDERLY WIND
4 DOWN AND HE SAID NO BECAUSE THEY WEREN'T GOING TO OFFER
5 HIM ANY MONEY?

6 A. CORRECT.

7 Q. BUT THEY WERE PAYING BURBANK 495 AN HOUR?

8 A. YEAH. I THINK WILLIAMS STUCK AROUND UNTIL
9 DECEMBER SOMETIME. AND I TRIED TO ASSIST THIS, BUT I'M
10 NOT BEING COMPENSATED.

11 Q. WHEN WERE THE EMPLOYEES OF FRESH 'N HEALTHY LET
12 GO?

13 A. PROBABLY THE END OF DECEMBER.

14 Q. WHO INFORMED THE EMPLOYEES THAT --

15 A. I BELIEVE IT WAS WILLIAMS.

16 Q. WILLIAMS DID?

17 A. YES.

18 Q. HOW MANY EMPLOYEES DID FRESH 'N HEALTHY HAVE AT
19 THE TIME IT CLOSED DOWN?

20 A. I DON'T KNOW.

21 Q. WAS THERE A PRESS RELEASE THAT WAS DONE TO THE
22 TRADE?

23 A. I BELIEVE THAT MURRAY & MURRAY DRAFTED A LETTER
24 THAT WAS SENT OUT TO THE SUPPLIERS.

25 Q. SO THEY WERE THE ONES BEHIND SENDING A LETTER,
NONCERTIFIED ROUGH DRAFT

1 MURRAY & MURRAY WITH COMERICA, UNDER THE DIRECTION OF
2 COMERICA?

3 A. I DON'T KNOW UNDER THE DIRECTION OF COMERICA,

Cinelli.ROUGH~1.TXT

4 BUT I KNOW MURRAY AND MURRAY WAS THE ONE THAT SENT IT
5 OUT.

6 Q. WERE THEY GETTING ADVICE FROM MANAGEMENT, FROM
7 ANY MANAGEMENT OR WHO WAS KIND OF MAKING THE DECISION?
8 BECAUSE THEY ARE A LAW FIRM SO THEY ARE TAKING ORDERS
9 FROM SOMEBODY.

10 A. I BELIEVE BURBANK.

11 Q. SO BURBANK ESSENTIALLY KIND OF TOOK OVER
12 RUNNING THE COMPANY AT SOME POINT?

13 A. HE WAS OVERSEEING THE WIND DOWN.

14 Q. AT WHAT POINT IN TIME DID MR. BURBANK
15 ESSENTIALLY TAKE CONTROL?

16 A. HE SPEARHEADED THE ENTIRE WIND DOWN PROBABLY,
17 YOU KNOW, SORT OF IN THE NOVEMBER, DECEMBER TIME FRAME,
18 YOU KNOW, IN CONJUNCTION WITH THE BANK, BECAUSE I WAS
19 THE REMAINING DIRECTOR, THEY HAD ME SIGN DIFFERENT
20 THINGS THAT THEY BELIEVE HAD TO BE ACCOMPLISHED FROM A
21 CORPORATE STANDPOINT. BUT THE DECISION-MAKING RESTED
22 WITH COMERICA AND BURBANK.

23 MS. ANASTASSIOU: LET'S MARK THIS AS SC NO. 6.
24 (EXHIBIT SC-6 MARKED.)

□ Rough Draft - 89

25 MS. ANASTASSIOU: I HAVE JUST HANDED THE
NONCERTIFIED ROUGH DRAFT

1 WITNESS A DOCUMENT THAT IS FIRST AMENDED COMPLAINT OF
2 SNOW SEED VERSUS FRESH 'N HEALTHY, ET AL. IT'S
3 BATES-STAMPED SNO 1 THROUGH 45. AND I WOULD LIKE TO
4 DIRECT YOUR ATTENTION TO EXHIBIT NO. B TO THE COMPLAINT,
5 WHICH IS BATES-MARKED SNO 36 THROUGH 38.

6 THE WITNESS: OKAY.

7 BY MS. ANASTASSIOU:

8 Q. AND IF YOU CAN TAKE A LOOK AT THAT, FAMILIARIZE
9 YOURSELF WITH IT AND LET ME KNOW WHEN YOU ARE READY?

Cinelli.ROUGH~1.TXT

10 A. I AM FAMILIAR WITH IT.

11 Q. OKAY. SO THERE WAS A PROMISSORY NOTE THAT
12 FRESH 'N HEALTHY SIGNED PROMISING TO PAY SNOW SEED AND
13 IT'S DATED NOVEMBER 2ND, 2007?

14 A. UH-HUH.

15 Q. AND YOU SIGNED THE NOTE AND MR. WILLIAMS SIGNED
16 THE NOTE; IS THAT CORRECT?

17 A. CORRECT.

18 Q. OKAY. AT THE TIME THIS NOTE WAS SIGNED, WAS
19 COMERICA INFORMED THAT THE NOTE WAS BEING EXECUTED?

20 A. WE HAD INDICATED THAT THERE WERE PAYMENT TERMS
21 THAT WERE REACHED WITH A HANDFUL OF DIFFERENT VENDORS.
22 I DON'T KNOW SPECIFICALLY, WE MIGHT HAVE MENTIONED SNOW
23 SEED AND THERE WAS ANOTHER SEED COMPANY THAT HAD AGREED
24 TO PAYMENT TERMS.

□ Rough Draft - 90

25 Q. AND SO YOU RECALL INFORMING THE BANK THAT THERE
NONCERTIFIED ROUGH DRAFT

1 WAS AN AGREEMENT MADE FOR PAYMENT TERMS, YOU DON'T
2 RECALL SPECIFICALLY WHETHER OR NOT YOU PROVIDED THIS
3 NOTE TO --

4 A. THAT'S CORRECT.

5 Q. -- COMERICA?

6 A. THAT'S CORRECT.

7 Q. OKAY. BUT THEY WERE AWARE THAT THERE WERE
8 OTHER VENDORS THAT WERE -- PAYMENT TERMS WERE BEING
9 MADE?

10 A. THAT'S CORRECT.

11 Q. AND THERE WERE PAYMENTS THAT WERE REQUIRED TO
12 BE MADE UNDER THIS NOTE OF \$7,500 A WEEK. WHAT WAS THE
13 GAME PLAN AT THE TIME THAT THIS NOTE WAS EXECUTED AS FAR
14 AS HOW THESE PAYMENTS WERE GOING TO BE MADE?

Cinelli.ROUGH~1.TXT

15 A. THE INTENT WAS THAT THE PAYMENTS WERE GOING TO
16 BE MADE OUT OF THE CASH FLOWS OF THE BUSINESS.

17 Q. OKAY. AND THEN YOU ARE SAYING THOUGH RIGHT
18 ABOUT THIS SAME TIME COMERICA WAS DECIDING TO JUST SHUT
19 DOWN THE BUSINESS, CORRECT?

20 A. IN LATE NOVEMBER, EARLY DECEMBER.

21 Q. SO WHEN THEY DECIDED TO SHUT DOWN THE BUSINESS,
22 WERE THEY INFORMED THAT THERE WERE VENDORS THAT WERE
23 RELYING ON THESE PAYMENTS?

24 A. CORRECT. THEY SAW THE PAYABLE LIST, THEY KNEW
25 THE EXTENT OF CERTAIN PAYMENT TERMS GENERICALLY WITH
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 91

1 CERTAIN VENDORS.

2 Q. AND YET THEY DECIDED TO SHUT IT DOWN
3 REGARDLESS?

4 A. CORRECT.

5 Q. AND WAS THIS PROMISSORY NOTE IN A FILE THAT
6 WOULD HAVE BEEN SEEN BY MR. BURBANK?

7 A. I WOULD IMAGINE SO.

8 Q. AND MR. WILLIAMS EXECUTED THIS NOTE, CORRECT?

9 A. YES.

10 Q. WHAT WERE YOUR CONVERSATIONS WITH MR. WILLIAMS
11 AT THE TIME THE NOTE WAS BEING EXECUTED?

12 A. THE CONVERSATIONS WERE THERE WAS QUITE A LARGE
13 AMOUNT OF PAYABLES AND THE ABILITY OF THE COMPANY TO
14 HANDLE THOSE PAYABLES ON A CURRENT BASIS WAS
15 PROBLEMATIC, SO WE BEGAN CONVERSATIONS WITH A NUMBER OF
16 VENDORS INCLUDING SNOW SEED ABOUT EXTENDED PAYMENT
17 TERMS, BELIEVING THAT THE COMPANY'S CASH FLOW WOULD
18 IMPROVE TO SERVICE THESE PARTICULAR NOTES.

19 Q. AND YOU SAID THAT AT THE TIME THAT COMERICA
20 MADE THE DECISION TO SHUT DOWN THAT YOU HAD SOME

Cinelli.ROUGH~1.TXT

21 NEGOTIATION PENDING FOR A PARTNERSHIP TRANSACTION?

22 A. WE HELD CONVERSATIONS WITH A NUMBER OF MAJOR

23 COMPANIES TO PROCESS DIFFERENT PRODUCT ON A CONTRACT

24 BASIS, AND WHILE THOSE WERE BEING ADVANCED, THE BUSINESS

25 BASICALLY CRASHED. SOME OF THE THINGS THAT UNDERMINED
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 92

1 IT WAS MARTINEZ CAME INTO A COUPLE OF THE PLANTS AND

2 TOOK SOME OF THE EQUIPMENT.

3 Q. MARTINEZ CAME INTO THE PLANTS AND JUST TOOK THE
4 EQUIPMENT?

5 A. YEAH. AND HIS CONTENTION IS THAT SOME OF THE

6 EQUIPMENT WAS SUBJECT -- WHEN WE CONSUMMATED THE

7 TRANSACTION IN MARCH, FEBRUARY OR MARCH, CERTAIN PIECES

8 OF THE EQUIPMENT WERE SUBJECT TO CAPITAL LEASES,

9 THIRD-PARTY LEASES. AND IT WAS INCUMBENT ON FRESH 'N

10 HEALTHY TO HAVE THOSE LEASES ASSIGNED OR ASSUMED.

11 MCCORMICK DID NOT DO A GOOD JOB OF HAVING THOSE

12 ASSIGNED. SOME OF THE, FROM WHAT I UNDERSTAND, SOME OF

13 THE LESSORS SOURCE WOULD NOT ASSIGN THOSE WITHOUT A

14 PERSONAL GUARANTEE.

15 Q. SO MCCORMICK WAS -- OH, MARK --

16 A. HE WAS THE CFO.

17 Q. OKAY. AND HE WAS SUPPOSED TO MAKE SURE THAT

18 THEY WERE ASSIGNED OR ASSUMED AND THAT THEY DIDN'T GET

19 ASSIGNED OR ASSUMED?

20 A. AND THERE WAS A PROVISION WITHIN THE ASSET

21 PURCHASE AGREEMENT SAYING THAT IF, IN FACT, THOSE WERE

22 NOT ASSIGNED, THAT IN EFFECT TITLE TO THOSE ASSETS DID

23 NOT TRANSFER AND THUS MR. MARTINEZ BELIEVED THAT HE WAS

24 ENTITLED AS THE RESPONSIBLE PARTY TO TAKE -- TO

25 BASICALLY SELF-HELP HIMSELF TO KEY EQUIPMENT.

□ Rough Draft - 93

Cinelli.ROUGH~1.TXT

1 Q. AND THERE WAS NO COURT ORDER THAT HE GOT?

2 A. NO.

3 Q. AND NOBODY DID ANYBODY TO STOP HIM?

4 A. THAT BECAME A CONTENTIOUS ISSUE, BECAUSE
5 BURBANK WAS OVERSEEING THIS, I INDICATED TO BURBANK THAT
6 SHOULDN'T THERE BE SOMEONE OVERSEEING THE EQUIPMENT AND
7 THE PLANT AND EVERYTHING ELSE, AND, YOU KNOW, NOTHING
8 WAS DONE ON THAT FRONT. SO MARTINEZ CAME INTO THE EL
9 CENTRO PLANT AND PULLED OUT SOME OF THE CRITICAL
10 EQUIPMENT WHICH BASICALLY UNDERMINED SORT OF THIS
11 RESTART OF THE EL CENTRO FACILITY.

12 Q. WOW.

13 A. THIS IS A BLOODY MESS. AND OTHER VENDORS
14 HELPED THEMSELVES TO IRRIGATION PIPES. OTHER VENDORS
15 CAME INTO THE DAVIDSON FACILITY AND SELF-HELPED
16 THEMSELVES TO OTHER EQUIPMENT. AND SO THERE'S -- AND
17 THIS ASSUME IS ALL CONFIDENTIAL?

18 Q. WELL, THIS IS ACTUALLY A DEPOSITION, IT'S UNDER
19 OATH THAT'S KIND OF COURT TESTIMONY.

20 A. OKAY.

21 Q. SO --

22 A. BUT IS IT GOING TO BE ON PUBLIC RECORD?

23 Q. WELL, IT CAN BE USED AS PUBLIC RECORD, CORRECT.
24 I SHOULD HAVE -- WHY DON'T WE GO BACK. I JUST ASSUMED
25 THAT YOU WERE AWARE OF THE NATURE OF A DEPOSITION. LET
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 94

1 ME JUST GO BACK. SO YOU'VE NEVER BEEN DEPOSED BEFORE?

2 A. NO.

3 Q. A DEPOSITION, YOU ARE UNDER OATH, THE COURT
4 REPORTER IS TAKING YOUR TESTIMONY UNDER OATH, YOUR
5 TESTIMONY HAS THE SAME WEIGHT AS IF YOU WERE IN COURT

Cinelli.ROUGH~1.TXT

6 EVEN THOUGH YOU ARE IN AN INFORMAL SETTING HERE IN MY
7 OFFICE.

8 A. OKAY.

9 Q. AND THIS TESTIMONY CAN BE USED IN COURT. FOR
10 EXAMPLE, IF WE WERE TO HAVE A COURT PROCEEDING AND YOU
11 WEREN'T THERE, IT COULD BE USED IN LIEU OF YOU APPEARING
12 OR IT ALSO COULD BE USED IN THE EVENT YOU APPEARED IN
13 COURT AND TESTIFIED DIFFERENTLY THAN THE WAY YOU TESTIFY
14 TODAY, IT COULD BE USED TO IMPEACH YOU IN COURT. IF,
15 FOR EXAMPLE, YOU SAID TODAY THAT I REMEMBER INVESTING
16 TEN TO \$15,000 AND IT TURNED OUT THAT THAT WAS INVESTED
17 BY SOMEBODY ELSE, AND YOU TESTIFIED DIFFERENTLY, THEN I
18 COULD BRING THAT UP TO COURT AND THAT BECOMES A
19 CREDIBILITY ISSUE. SO THIS TESTIMONY IS UNDER OATH AND
20 CAN BE USED FOR THAT PURPOSE. SO, BUT I MEAN, YOU KNOW,
21 AS FAR AS WHAT YOU ARE AWARE OF, I MEAN, I'M ENTITLED,
22 YOU KNOW, TO GET ALL THE RELEVANT INFORMATION.

23 A. SURE.

24 Q. AND SO TO THE EXTENT THAT YOU DON'T KNOW WHO
25 EXACTLY TOOK THE EQUIPMENT, YOU CAN LET ME KNOW THAT, TO
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 95

1 THE EXTENT THAT YOU BELIEVE THAT IT WAS A CERTAIN
2 PERSON, YOU CAN TELL ME THAT, AND, YOU KNOW, IF YOU ARE
3 UNSURE, YOU CAN TELL ME THAT YOU ARE UNSURE.

4 A. OKAY.

5 Q. SO YOU BELIEVE THAT AT THE SAME TIME THAT THIS
6 RUSS BURBANK WAS IN THERE, THEN WHAT CREATED THE CRISIS
7 WAS THE FACT THAT SANTOS CAME IN TO PULL OUT THAT
8 EQUIPMENT AND THEN AT THE SAME TIME OTHER VENDORS WERE
9 PULLING EQUIPMENT FROM FRESH 'N HEALTHY?

10 A. CORRECT.

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11 Q. AND THESE WERE PEOPLE THAT HAD INTERESTS IN THE
12 EQUIPMENT AS LESSORS OF THE EQUIPMENT?

13 A. I BELIEVE, WITH THE EXCEPTION OF MARTINEZ, WHO
14 WAS STILL ON THE LEASE LIABILITY AND FELT HE WAS
15 ENTITLED TO TAKE THAT EQUIPMENT, I BELIEVE THAT OTHER
16 SUPPLIERS IN ORDER TO COMPENSATE THEM FOR OUTSTANDING
17 PAYABLES STARTED TAKING OTHER EQUIPMENT. INCLUDING SOME
18 OF THE IRRIGATION PIPES.

19 Q. SO, IN OTHER WORDS, THESE WEREN'T SECURED
20 PARTIES --

21 A. NO.

22 Q. -- THESE WERE JUST PEOPLE THAT WERE OWED MONEY?

23 A. THAT'S CORRECT.

24 Q. SO, FOR EXAMPLE, IF SOMEBODY WAS OWED MONEY FOR
25 FUEL, THEY JUST MAY HAVE COME OUT AND TAKEN SOME
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 96

1 IRRIGATION PIPE --

2 A. CORRECT.

3 Q. -- TO COMPENSATE THEM FOR THE FUEL BILL?

4 A. THAT'S RIGHT.

5 Q. WHO WAS GIVING THEM AUTHORITY TO COME IN --

6 A. NO ONE.

7 Q. -- AND TAKE THIS EQUIPMENT?

8 A. NO ONE.

9 Q. WHAT WAS THE BASIS FOR THEM COMING OUT TO DO
10 THAT, DO YOU KNOW? WAS IT CONVERSATIONS BETWEEN SANTOS
11 AND THE SUPPLIERS? DO YOU HAVE ANY IDEA AS TO WHY
12 PEOPLE WOULD JUST COME IN AND START TAKING EQUIPMENT?

13 A. I KNOW THAT CHANDRA HAD CONVERSATIONS WITH SOME
14 SUPPLIERS, I KNOW BURBANK I BELIEVE HAD CONVERSATIONS.
15 BUT AS FAR AS I KNOW, AND YOU CAN CORROBORATE THIS WITH
16 CHANDRA AND BURBANK, A NUMBER OF SUPPLIERS JUST

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17 SELF-HELPED THEMSELVES TO EQUIPMENT.

18 Q. AND CAN YOU IDENTIFY ANY OF THOSE SUPPLIERS?

19 A. I COULDN'T. I WOULD HAVE TO CHAT WITH EITHER
20 CHANDRA OR BURBANK ON THAT. POSSIBLY WILLIAMS. I KNOW
21 THAT WILLIAMS HAD NEGOTIATED WITH ONE OF THE BIG PRODUCE
22 SUPPLIERS THE EXCHANGE OF CERTAIN PIPE FOR OUTSTANDING
23 PAYABLES IN THE HUNDREDS OF THOUSANDS OF DOLLARS.

24 Q. DO YOU KNOW WHO THE --

25 A. I CAN'T RECALL.
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 97

1 Q. WHO IT WAS?

2 A. NO.

3 Q. SO WHAT STARTED HAPPENING IS MARTINEZ CAME IN
4 AND THEN THERE WERE NEGOTIATIONS WITH CHANDRA, BURBANK
5 OR WILLIAMS, AND THESE SUPPLIERS WHO SAID, HEY, WE WILL
6 FORGIVE OUR DEBT IF YOU GIVE US X AMOUNT OF FRESH 'N
7 HEALTHY EQUIPMENT?

8 A. THAT HAPPENED IN A COUPLE OF OCCASIONS. BUT
9 THERE WAS A DISCUSSION, LARGELY WILLIAMS NEGOTIATING
10 WITH SOME OF THE VENDORS ABOUT THE SWAP OF PAYABLES FOR
11 EQUIPMENT. BUT OTHERS, INCLUDING MARTINEZ, TOOK THE
12 LIBERTIES OF JUST GOING IN AND TAKING THE EQUIPMENT.

13 Q. AND THERE WAS NO COURT RECORDS TO DO ANY OF
14 THAT?

15 A. THAT'S CORRECT.

16 Q. AND DID BURBANK ATTEMPT TO TAKE ANY LEGAL
17 ACTION AGAINST ANY OF THESE PEOPLE?

18 A. NO, NO.

19 Q. WHAT ABOUT MURRAY & MURRAY?

20 A. NO.

21 Q. WAS THERE EVER ANY DISCUSSION ABOUT TAKING

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22 LEGAL ACTION AGAINST THESE --

23 A. YOU HAD SUGGESTED TAKING LEGAL ACTION, AND I
24 GUESS THE CONCLUSION I DREW IS THAT THE COMBINATION OF
25 THE BANK, MURRAY & MURRAY AND BURBANK DIDN'T WANT TO
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 98

1 INCUR A COST OF TAKING LEGAL ACTION. IN FACT,
2 COMERICA'S ATTORNEY OPINED THAT SANTOS MARTINEZ WAS
3 ENTITLED TO TAKE THAT EQUIPMENT. I HAD A DIFFERENT
4 OPINION BY THE BAKER & MCKENZIE FOLKS WHO REPRESENTED US
5 SAYING THAT REGARDLESS OF WHAT IT SAID IN THE DOCUMENT,
6 WE PURCHASED THE EQUIPMENT FOR FAIR VALUE AND FRESH 'N
7 HEALTHY WAS STILL ENTITLED TO THE EQUIPMENT.

8 Q. PLUS THE FACT THAT SELF-HELP IS ILLEGAL UNDER
9 CALIFORNIA LAW WITHOUT YOUR CONSENT.

10 A. WELL, YEAH, TALK TO MR. MARTINEZ ABOUT THAT.

11 Q. IN OTHER WORDS, YOU CAN HAVE A RIGHT IN A
12 DOCUMENT, BUT IN ORDER TO GET IT ENFORCED YOU HAVE TO
13 EITHER GO TO COURT OR HAVE CONSENT, ONE OF THE TWO.

14 DO YOU KNOW WHETHER OR NOT FRESH 'N HEALTHY
15 EVER CONSENTED TO MR. MARTINEZ TAKING THE EQUIPMENT?

16 A. NO. WE FOUND OUT ONE WEEKEND THAT SOME SCALES
17 AND A BIG PACK MAT MACHINE WERE TAKEN SOME SATURDAY
18 NIGHT, SUNDAY OR WHATEVER WHEN NO ONE WAS AT THE PLANT.

19 Q. AND DID MR. MARTINEZ STILL HAVE THE KEYS TO THE
20 PLANT?

21 A. HE HAD THE COMBINATION TO THE LOCK. AGAIN, HE
22 WAS ENGAGED AS A CONSULTANT STILL.

23 Q. AND HE OWNS STOCK IN THE COMPANY, WAS A
24 DIRECTOR?

25 A. HE OWNED STOCK IN THE COMPANY AND HE WAS, YOU
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 99

1 KNOW, HE WAS -- SOME OF THE OTHER THINGS THAT, AGAIN,
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2 THERE IS A, THERE IS A SEPARATE ACTION BEING PUT
3 TOGETHER ON THIS WHOLE THING. BUT I WON'T GO INTO
4 DETAIL ON THAT. BUT IT'S MY BELIEF HE BREACHED HIS
5 CONFIDENTIALITY TERMS WITHIN THE CONSULTING AGREEMENT.
6 AND HE BREACHED OTHER THINGS IN THE ASSET PURCHASE
7 AGREEMENT AS WELL AS THE CONSULTING. BUT THAT'S A
8 SUBJECT OF A DIFFERENT DISCUSSION.

9 Q. NOW, WHEN THEY WERE -- THE ACQUISITION WAS
10 INITIALLY MADE FROM SANTOS MARTINEZ -- WE WILL TAKE A
11 BREAK FOR LUNCH IN A COUPLE OF MINUTES. I KNOW IT'S --

12 A. I'VE GOT A -- HOW MUCH LONGER DO YOU
13 ANTICIPATE? BECAUSE I'VE GOT A BOARD MEETING I HAVE TO
14 ATTEND IN SAN FRANCISCO.

15 Q. OKAY. WHY DON'T WE TALK ABOUT THAT. WHAT TIME
16 IS YOUR BOARD MEETING?

17 A. AT 4 O'CLOCK.

18 Q. AND SO YOU'LL HAVE TO LEAVE HERE --

19 A. 2:30.

20 Q. NO, PROBABLY TWO.

21 A. I DRIVE FAST.

22 Q. YOU DRIVE FAST.

23 A. PROBABLY SAY 2:15 OR SO.

24 Q. WE ARE GOING TO NEED RECONVENE WITH ALL THE
25 DOCUMENTS THAT WE HAVE BEEN DISCUSSING.

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NONCERTIFIED ROUGH DRAFT

1 A. SURE.

2 Q. SO I DON'T KNOW WHAT YOU WANT TO DO FOR LUNCH,
3 IF YOU WANT TO MAYBE TRY TO GO THROUGH FOR ANOTHER HOUR
4 AND THEN YOU CAN GO TO LUNCH AND GO TO YOUR MEETING
5 OR --

6 A. THAT'S FINE, I WOULD LIKE TO IF YOU ARE GAME TO

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7 CONTINUE.

8 Q. GOOD. SO, YEAH, BECAUSE I SAW YOU LOOKING AT
9 YOUR WATCH. ALSO, WHY DON'T I JUST TAKE A BREAK FOR A
10 MINUTE AND GET MY CALENDAR AND WE CAN TALK ABOUT DATES
11 TO RESCHEDULE.

12 A. I'LL GO OUT TO MY CAR TO GET MY BLACKBERRY.

13 MS. ANASTASSIOU: WHY DON'T WE TAKE A
14 FIVE-MINUTE BREAK THEN.

15 (BREAK.)

16 MS. ANASTASSIOU: BACK ON THE RECORD. THE
17 WITNESS HAS A PRIOR APPOINTMENT TODAY FOR 4 O'CLOCK IN
18 SAN FRANCISCO SO WE ARE GOING TO RECESS THIS DEPOSITION
19 EARLY TODAY. AND ALSO THE WITNESS DID NOT BRING THE
20 DOCUMENTS THAT WERE REQUESTED PURSUANT TO THE DEPOSITION
21 NOTICE AND HE IS GOING TO BE GATHERING DOCUMENTS AND WE
22 ARE GOING TO RECONVENE FOR A CONTINUED DEPOSITION ON
23 TUESDAY, MARCH 25, AT 9 A.M. HERE AT THIS OFFICE AT 242
24 CAPITOL STREET, SALINAS, CALIFORNIA.

25
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1 BY MS. ANASTASSIOU:

2 Q. OKAY. SO YOU WERE LOOKING IN YOUR BLACKBERRY
3 TO GET ME SOME ADDRESS OR INFORMATION?

4 A. YEAH, I'M LOOKING FOR IT RIGHT NOW. I'VE GOT
5 HER OLD ADDRESS. LET'S CALL HER.

6 (OFF THE RECORD.)

7 BY MS. ANASTASSIOU:

8 Q. GOING BACK ON THE RECORD THEN. IN CONNECTION
9 WITH THE COMERICA BANK LOAN, WAS FRESH 'N HEALTHY MAKING
10 LOAN PAYMENTS TO COMERICA BANK ON A REGULAR BASIS?

11 A. YEAH, PROBABLY UP UNTIL MAYBE JULY, AUGUST, OR
12 ACTUALLY AUGUST, SEPTEMBER.

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13 Q. OF 2007?

14 A. CORRECT.

15 Q. AND HOW MUCH WERE THE MONTHLY PAYMENTS TO
16 COMERICA, OR WERE THEY WEEKLY PAYMENTS OR HOW DID IT
17 WORK EXACTLY?

18 A. IT WAS QUARTERLY PAYMENTS. I THINK INTEREST
19 WAS PAYABLE MONTHLY AND THEN QUARTERLY PAYMENTS OF
20 SOMETHING LIKE A HUNDRED AND FIFTY THOUSAND DOLLARS.

21 Q. AND DID COMERICA JUST DO A SWEEP OF THE ACCOUNT
22 TO MAKE THE PAYMENT OR WAS THE PAYMENT LIKE A CHECK THAT
23 WAS PHYSICALLY CUT FROM FRESH 'N HEALTHY, DO YOU KNOW?

24 A. I BELIEVE THEY JUST DEBITED THE ACCOUNT.

25 Q. THEY DEBITED THE ACCOUNT?
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 102

1 A. CORRECT.

2 Q. AND THIS WAS THE ACCOUNT THAT FRESH 'N
3 HEALTHY --

4 A. THE GENERAL ACCOUNT.

5 Q. THE GENERAL ACCOUNT THAT FRESH 'N HEALTHY USED
6 FOR ITS GENERAL BUSINESS OPERATIONS?

7 A. THAT'S CORRECT.

8 Q. SO THAT WHEN A PAYMENT WAS DUE THEY DEBITED THE
9 ACCOUNT. AND THAT WAS BOTH FOR INTEREST AND PRINCIPAL
10 PAYMENTS?

11 A. CORRECT.

12 Q. AND THEN YOU SAID IN AUGUST OR SEPTEMBER OF
13 2007 THERE STARTED TO BE NOT ENOUGH MONEY TO MAKE THE
14 PAYMENTS, OR WHAT HAPPENED?

15 A. YEAH, THAT WAS THE CASE, THAT THE CASH FLOWS OF
16 THE COMPANY WERE LIMITED, THERE WERE OVERDRAFTS BEING
17 CREATED. AND I KNOW THAT COME THE TAIL END OF THE YEAR,

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18 PROBABLY IN OCTOBER OR NOVEMBER, THE COMPANY AND THE
19 BANK SIGNED A FORBEARANCE AGREEMENT. SO IT ELONGATED
20 THE PAYMENTS. I BELIEVE IN THE FORBEARANCE AGREEMENT
21 THERE WAS A STIPULATION THAT THE COMPANY AT LEAST FOR A
22 PERIOD OF TIME MADE MONTHLY PAYMENTS, I CAN'T REMEMBER
23 THE DOLLAR AMOUNT THERE, TO TRY TO CATCH UP, AND I
24 BELIEVE AFTER THE FIRST MONTH, THE COMPANY VIOLATED
25 THAT.

□ Rough Draft - 103

NONCERTIFIED ROUGH DRAFT

1 Q. THOSE MONTHLY PAYMENTS AGAIN WERE STILL BEING
2 JUST TAKEN OUT OF THE GENERAL ACCOUNT BY COMERICA?

3 A. YEAH. THEY NOT ONLY DEBITED THE ACCOUNT FOR
4 PRINCIPAL AND INTEREST BUT THEY WOULD DEBIT THE ACCOUNT
5 FOR --

6 Q. LATE FEES?

7 A. -- THEIR OWN ATTORNEY'S FEES, LATE FEES,
8 WHATEVER.

9 Q. SO PRINCIPAL, INTEREST, LATE FEES, ATTORNEY'S
10 FEES. AND THEN THEY STARTED DEBITING THE ACCOUNT FOR
11 THE MURRAY & MURRAY FEES?

12 A. NO, THE MURRAY & MURRAY FEES WERE AFTER THE
13 FACT. MURRAY & MURRAY RECENTLY GOT ENGAGED TOWARD THE
14 TAIL END OF THE WIND DOWN AND COMERICA HAS CONTROL OF
15 THE RECEIVABLE COLLECTION. AND I GUESS THEY HAVE AN
16 ACCOUNT SET ASIDE THROUGH WHICH BURBANK, COMERICA'S
17 COUNSEL AND MURRAY & MURRAY ARE BEING PAID.

18 Q. AND THAT'S FROM THE PRODUCE RECEIVABLES THAT
19 THEY ARE COLLECTING?

20 A. THAT'S CORRECT.

21 Q. ARE THEY AWARE THAT THE -- IS COMERICA AWARE
22 THAT THERE ARE PACA CREDITORS OUT THERE?

23 A. ABSOLUTELY. AS FAR AS I KNOW THEY ARE

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24 EARMARKING MONEYS TO ADDRESS THE PACA PAYABLES FIRST.

25 Q. BUT THEY HAVEN'T BEEN PAYING ANY PACA PAYABLES
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1 BUT THEY HAVE BEEN PAYING MURRAY & MURRAY AND BURBANK
2 CURRENTLY?

3 A. I DON'T KNOW IF THEY HAVE MAKING PAYMENTS ON
4 THE PACA PAYABLES YET.

5 Q. AND HOW DO YOU KNOW THAT THEY'RE AWARE OF THE
6 PACA PAYABLES?

7 A. PROBABLY ALL THE OUTSTANDING PACA PAYABLES ARE
8 SUBJECT TO LAWSUITS NOW.

9 Q. SO THEY ARE AWARE OF ALL THOSE LAWSUITS?

10 A. ABSOLUTELY.

11 Q. AND I KNOW THAT THERE WAS -- I HAVE A COPY OF
12 THAT LAWSUIT HERE SOMEWHERE TOO.

13 MS. ANASTASSIOU: MARK THIS AS SC NO. 7.

14 (EXHIBIT SC-7 MARKED.)

15 MS. ANASTASSIOU: I HAVE JUST HANDED THE
16 WITNESS A DOCUMENT THAT WE MARKED AS SC NO. 7. IT'S
17 BATES STAMPED SNO 452 THROUGH 460. IT CONSISTS OF A
18 STIPULATING REGARDING COMPLAINT FOR CONSENT JUDGMENT AND
19 ORDER REGARDING PRIDE OF SAN JUAN INC. VERSUS FRESH 'N
20 HEALTHY THAT WAS FILED IN COURT IT LOOKS LIKE ON
21 AUGUST 23RD, 1007. DO YOU KNOW WHETHER COMERICA BANK
22 WAS AWARE OF THIS LAWSUIT WITH PRIDE OF SAN JUAN AND
23 FRESH 'N HEALTHY?

24 A. I DON'T KNOW. BUT AS FAR AS I KNOW THIS HAS
25 ALL BEEN PAID.

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1 Q. RIGHT. BUT I WAS ASKING YOU WHETHER OR NOT
2 THEY WERE AWARE THAT THERE WAS A SUIT FROM PRIDE OF SAN

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3 JUAN REGARDING FAILURE TO PAY?

4 A. I DON'T KNOW.

5 Q. DO YOU KNOW HOW COMERICA -- WHAT KIND OF
6 INFORMATION COMERICA BANK WAS GETTING ON A REGULAR
7 BASIS?

8 A. THAT WAS ONE OF THE BIG PROBLEMS AND THAT'S ONE
9 OF THE REASONS THE BANK GOT A LITTLE AGGRESSIVE IN THAT
10 THE COMPANY VIOLATED THE TERMS OF THE CREDIT AGREEMENT
11 BECAUSE IT DIDN'T PRODUCE REGULAR FINANCIAL STATEMENTS.
12 IT WAS SUPPOSED TO SUBMIT I BELIEVE MONTHLY FINANCIAL
13 STATEMENTS. BUT UNDER MARK MCCORMICK, AND HE ALWAYS
14 COMPLAINED ABOUT DIFFERENT THINGS, HE NEVER PRODUCED ANY
15 FINANCIAL STATEMENTS FOR THE BANK. IT WASN'T UNTIL AJ
16 CHANDRA CAME IN THAT ANY FINANCIAL REPORTS WERE
17 PROVIDED. I BELIEVE THE BANK RECEIVED RECEIVABLE AGINGS
18 AND PAYABLE AGINGS, BUT RELATIVE TO PURE FINANCIAL
19 STATEMENTS, THE BANK NEVER GOT THOSE UNTIL PROBABLY
20 OCTOBER, NOVEMBER.

21 Q. SO THEY GETTING RECEIVABLE AGINGS AND PAYABLE
22 AGINGS ON A REGULAR BASIS THROUGHOUT THE EXISTENCE OF
23 FRESH 'N HEALTHY?

24 A. I BELIEVE SO.

25 Q. BUT THEY DIDN'T GET FINANCIAL STATEMENTS
NONCERTIFIED ROUGH DRAFT

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1 BECAUSE THEY WEREN'T BEING PRODUCED?

2 A. THAT'S CORRECT.

3 Q. AND THE RECEIVABLE -- THE PAYABLE AGINGS AGENTS
4 WOULD HAVE SHOWN MONEYS OWED TO PACA PEOPLE THAT WEREN'T
5 BEING PAID, CORRECT?

6 A. CORRECT. AND THERE, FROM WHAT I REMEMBER THERE
7 WAS SOME ISSUES THAT THERE WERE DISCREPANCIES BETWEEN
8 WHAT SOME OF THE SUPPLIERS BELIEVED THEY WERE OWED AND

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9 WHAT FRESH 'N HEALTHY BELIEVED THEY OWED.

10 Q. AND WHEN WERE THOSE DISCREPANCIES, AT THE TIME
11 OF CLOSING OF THE BUSINESS OR --

12 A. I THINK THROUGHOUT THE PERIOD. BECAUSE THERE
13 WERE RETURNS AND THERE WERE CREDITS AND THE WHOLE
14 FINANCIAL REPORTING SIDE OF THE BUSINESS WAS NEVER PUT
15 TOGETHER PROPERLY. AND I LOOK AT MCCORMICK FOR THAT.

16 Q. AS FAR AS YOU KNOW THERE WAS NEVER ANY
17 COMPLAINT OR ARGUMENT BY ANYBODY THAT THE AMOUNT SNOW
18 SEED CLAIMS IT WAS OWED FOR SEED WAS DUE AND OWING?

19 A. I DON'T BELIEVE SO.

20 Q. JUST OTHER SUPPLIERS?

21 A. SOME OF THE OTHER SUPPLIERS. THE THING THAT I
22 AM CONFUSED ABOUT, I KNOW THERE WAS A TREMENDOUS AMOUNT
23 OF SEED INVENTORY AT THE TIME OF THE ACQUISITION, AND MY
24 UNDERSTANDING IS IT WAS PROBABLY SUFFICIENT TO COVER A
25 NUMBER OF SEASONS, SO I'M, AGAIN, I WASN'T THE ONE THAT
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 107

1 PROCURED ANY OF THESE SEED PURCHASES. SO JUST A LOT OF
2 QUESTIONS.

3 Q. AND DO YOU KNOW WHETHER OR NOT THERE WAS SOME
4 KIND OF A DISSIPATION OF SEED INVENTORY OR LOSS THAT
5 WASN'T USED FOR COMPANY BUSINESS?

6 A. I DON'T KNOW, I DON'T KNOW. BUT DURING THE DUE
7 DILIGENCE PERIOD, MR. MARTINEZ SHOWED ME THE SEED
8 INVENTORY THAT WAS PART OF THE ACQUISITION AND I HAVE NO
9 IDEA WHAT HAPPENED TO THAT.

10 Q. SO IS THERE ANY SEED INVENTORY THAT IS
11 CURRENTLY BEING HELD?

12 A. I DON'T KNOW, I DON'T KNOW.

13 Q. SO WHO WOULD KNOW WHAT ASSETS CURRENTLY EXIST

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14 IN FRESH 'N HEALTHY?

15 A. PROBABLY BURBANK.

16 Q. HE WOULD BE THE ONLY ONE?

17 A. YEAH, HE HAS BEEN TRYING TO KEEP ME INFORMED,
18 BUT THE INFORMATION HAS BEEN SOMEWHAT LIMITED.

19 Q. WHEN YOU SAY INFORMATION IS SOMEWHAT LIMITED,
20 WHAT DO YOU MEAN BY THAT?

21 A. YOU KNOW, AN ASSESSMENT OF THE EQUIPMENT THAT
22 IS OUT THERE, AN ASSESSMENT OF THE EQUIPMENT THAT'S
23 BEING SOLD, DISCREPANCIES BETWEEN WHAT MCCORMICK
24 INDICATED WAS PURCHASED UNDER FRESH 'N HEALTHY AND WHAT
25 EQUIPMENT IS ACTUALLY PART OF THE AUCTION. THINGS LIKE
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 108

1 THAT.

2 Q. LET ME -- I HAVE SOME INFORMATION THAT WE GOT
3 FROM THE INTERNET ABOUT WHAT APPEARS TO BE PART OF THE
4 AUCTION. LET'S MARK THIS AS EXHIBIT SC-8.

5 (EXHIBIT SC-8 MARKED.)

6 BY MS. ANASTASSIOU:

7 Q. AND I HAVE JUST HANDED THE WITNESS A DOCUMENT
8 THAT'S MARKED SC NO. 8 AND IT'S BATES-STAMPED SNO 188
9 THROUGH 193. AND I'LL REPRESENT TO YOU IT'S SOME
10 INFORMATION MY OFFICE PULLED FROM OFFLINE REGARDING THE
11 PUBLIC AUCTION OF FRESH 'N HEALTHY EQUIPMENT. WERE YOU
12 INVOLVED AT ALL IN PUTTING TOGETHER THIS AD FOR THE
13 AUCTION?

14 A. NO.

15 Q. ARE YOU AWARE OF WHAT'S BEING SOLD AT THE
16 AUCTION OF FRESH 'N HEALTHY EQUIPMENT?

17 A. VERY GENERAL TERMS.

18 Q. WHAT DO YOU MEAN BY THAT, VERY GENERAL TERMS?

19 A. I KNOW THAT THERE'S SOME ROLLING STOCK, SOME
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20 PROCESSING EQUIPMENT AND SOME FARM EQUIPMENT, THAT'S
21 ABOUT IT.

22 Q. DO YOU KNOW WHAT THE VALUE OF THAT EQUIPMENT
23 IS?

24 A. THE FAIR MARKET VALUE BASED ON APPRAISAL DATING
25 BACK TO LATE '06 WAS TWO POINT SOME MILLION DOLLARS.
NONCERTIFIED ROUGH DRAFT

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1 THERE WAS APPROXIMATELY, ACCORDING TO MCCORMICK BECAUSE
2 I SPOKE TO HIM, PROBABLY AN ADDITIONAL \$600,000 OF
3 EQUIPMENT THAT WAS PURCHASED BY FRESH 'N HEALTHY. AND I
4 DON'T KNOW THE VALUE OF THE ASSETS THAT WERE ABSCONDED
5 BY MARTINEZ, BECAUSE THOSE AREN'T INCLUDED IN THIS.

6 Q. SO THERE WAS APPROXIMATELY -- WHAT YOU ARE
7 SAYING INITIALLY BASED ON APPRAISAL FRESH 'N HEALTHY
8 PAID APPROXIMATELY 2.2 OR WHATEVER IT WAS APPRAISED
9 VALUE FOR THE EQUIPMENT?

10 A. YEAH, THE FAIR MARKET VALUE IS CERTAINLY
11 DIFFERENT THAN THE LIQUIDATION VALUE.

12 Q. BUT THE INITIAL PURCHASE OF THE EQUIPMENT IN
13 MARCH OF '07 WAS APPROXIMATELY -- THE ALLOCATED VALUE
14 WAS APPROXIMATELY TWO POINT SOMETHING?

15 A. I THINK THE VALUE WAS ROUGHLY -- FAIR MARKET
16 WAS 2.6, 2.3 OR 2.6. AND THEN DURING THE OVERSIGHT OF
17 FRESH 'N HEALTHY FROM FEBRUARY THROUGH SEPTEMBER,
18 MCCORMICK HAD INDICATED ABOUT FIVE TO SIX HUNDRED
19 THOUSAND DOLLARS OF ADDITIONAL EQUIPMENT HAD BEEN
20 PURCHASED.

21 Q. SO APPROXIMATELY \$3 MILLION DURING THE SHORT
22 LIFE OF FRESH 'N HEALTHY WAS EQUIPMENT THAT WAS
23 PURCHASED?

24 A. YEAH.

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25 Q. AND THEN YOU SAID THAT YOU'RE NOT SURE HOW MUCH
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1 OF THAT EQUIPMENT WAS ABSCONDED BY MARTINEZ?

2 A. CORRECT. AND I DON'T KNOW HOW MUCH EQUIPMENT
3 HAD BEEN TAKEN LARGELY IRRIGATION PIPES THROUGH OTHER
4 SUPPLIERS.

5 Q. THROUGH SELF-HELP THAT YOU WERE DESCRIBING?

6 A. BOTH SELF-HELP AND TRANSACTIONS THAT WILLIAMS
7 DID TO COVER SOME OF THE PAYABLE OUTSTANDINGS. I KNOW
8 THAT THE RESIDUAL EQUIPMENT THAT IS SUBJECT TO THIS
9 AUCTION, ASHMAN HAS COMMITTED TO BUY ALL THE STUFF FOR I
10 THINK 525,000. AND THAT WAS SOMETHING THAT WAS AGREED
11 ON BETWEEN THE BANK, BURBANK, AND ASHMAN.

12 Q. DO YOU KNOW WHETHER THAT'S A FAIR VALUE OR NOT,
13 YOU PERSONALLY?

14 A. I DON'T KNOW.

15 Q. AND DO YOU KNOW WHAT QUALIFICATIONS ASHMAN HAS
16 TO AUCTION OFF FARM EQUIPMENT?

17 A. AS MUCH AS I KNOW, HE'S BEEN IN BUSINESS DOING
18 THIS FOR QUITE SOME TIME.

19 Q. FARM EQUIPMENT OR OTHER EQUIPMENT?

20 A. I ASSUME VIRTUALLY EVERYTHING.

21 Q. BUT DO YOU KNOW?

22 A. I DON'T KNOW SPECIFICALLY.

23 Q. AND WAS ASHMAN SOMEBODY THAT WAS SELECTED BY
24 BURBANK?

25 A. BURBANK AND THE BANK.
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1 Q. AND THE BANK. AND DID YOU REALLY HAVE ANY SAY
2 IN --

3 A. NO.

4 Q. -- SELECTING THEM?

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5 A. NO. I HAD TO APPROVE THE ASHMAN DEAL AS A SOLE
6 DIRECTOR UNDER THE REQUEST OF THE BANK AND BURBANK.

7 Q. SO THEY BASICALLY TOLD YOU THAT YOU HAD TO
8 APPROVE IT?

9 A. BASICALLY.

10 Q. DID YOU HAVE ANY OPTION NOT TO APPROVE IT?

11 A. I GUESS I DID, BUT THEY WERE ORCHESTRATING THE
12 ENTIRE DISPOSITION OF THINGS, AND IT JUST APPEARS THAT
13 THEIR MOTIVATION IS TO EXPEDITE THIS WHOLE PROCESS.

14 Q. AND WHY ARE THEY IN SUCH A RUSH TO GET
15 EVERYTHING DONE? DO YOU KNOW?

16 A. NO. I GUESS ONE OF THE THINGS THAT BURBANK
17 SAID IS THAT THE LONGER YOU WAIT, THE ASSETS BECOME LESS
18 VALUABLE. AND SO HE AND THE BANK ARE HIGHLY MOTIVATED
19 TO GET THIS THING DONE.

20 Q. WHAT ABOUT THE FACT THAT WHEN YOU RUSH TO SALE
21 SOMETHING AND IT'S A FIRE SALE YOU GET LESS MONEY FOR
22 IT?

23 A. SUBJECT TO SPECULATION.

24 Q. SO THAT'S JUST -- THEIR ARGUMENT IS THAT, GEE,
25 WE NEED TO GET IT DONE?

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NONCERTIFIED ROUGH DRAFT

1 A. CORRECT.

2 Q. AND DO YOU KNOW WHY ALL OF A SUDDEN LIKE AT THE
3 END OF '07 THAT THE BANK BECAME IN SUCH A RUSH TO SHUT
4 DOWN THE COMPANY AND LIQUIDATE ASSETS?

5 A. AGAIN, THEY WERE LOOKING AT THE NEGATIVE CASH
6 FLOW, THEY WERE LOOKING AT THE INCREASED LIABILITIES AND
7 THEY WERE LOOKING AT THE EROSION OF THEIR COLLATERAL
8 POSITION.

9 Q. BECAUSE OF SANTOS TAKING THE EQUIPMENT?

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10 A. AND JUST -- I GUESS LOOKING AT THEY DIDN'T WANT
11 TO INCUR ANY EMPLOYEE LIABILITIES, THEY DIDN'T WANT TO
12 INCUR MORE PAYROLL TAX LIABILITIES. I FIND OUT LATER
13 WHICH I AM SURE YOU PROBABLY HAVE SEEN, MCCORMICK AND
14 WILLIAMS NEVER PAID PAYROLL TAXES.

15 Q. I DIDN'T KNOW THAT.

16 A. AND SO THERE IS ABOUT A MILLION DOLLAR OVERHANG
17 OF PAYROLL TAXES THAT ARE UNPAID.

18 Q. WOW.

19 A. AND WE DIDN'T FIND THAT OUT UNTIL AJ CHANDRA
20 CAME IN.

21 Q. AND WAS CHANDRA BROUGHT IN BY COMERICA BANK?

22 A. THEY HAD REQUESTED AN OUTSIDE PARTY COME IN. I
23 DON'T KNOW WHO, I THINK BURBANK, EITHER BURBANK OR
24 WILLIAMS FOUND CHANDRA THROUGH CFOS TO GO. AND SO HE
25 CAME IN.

□ Rough Draft - 113

NONCERTIFIED ROUGH DRAFT

1 Q. SO BURBANK, YOU SAID EVEN BACK THEN AS EARLY AS
2 AUGUST OR SEPTEMBER, BURBANK WAS INVOLVED?

3 A. YEAH, I THINK SEPTEMBER, OCTOBER. I THINK
4 SEPTEMBER, OCTOBER.

5 MS. ANASTASSIOU: JUST ONE SECOND.

6 (OFF THE RECORD.)

7 BY MS. ANASTASSIOU:

8 Q. WHEN THE ACQUISITION OF GOURMET VEG-PAQ WAS
9 MADE, THERE WERE CROPS IN GROUND THAT WERE ALREADY
10 GROWING, CORRECT?

11 A. CORRECT.

12 Q. WHO VALUED THOSE CROPS IN GROUND AS FAR AS WHAT
13 THEY WERE WORTH IN CONNECTION WITH THE --

14 A. THE VALUE WAS PLACED ON BY SANTOS AND HIS
15 ACCOUNTANT. AND I BELIEVE AT THE TIME THEY HAD

Cinelli.ROUGH~1.TXT

16 REPRESENTED THE VALUE TO BE ABOUT A MILLION THREE, A
17 MILLION FOUR. WE COME TO FIND OUT THAT THE VALUE THAT
18 WAS ACTUALLY IN THE GROUND WAS SUBSTANTIALLY LESS THAN
19 THAT.

20 Q. SO JUST GOING BACK, THAT WAS THE VALUE OF THE
21 CROPS IN GROUND BUT LATER THAT YOU LEARNED THAT THE
22 VALUE WAS LESS, WAS THAT AS A RESULT OF FINANCIAL
23 INFORMATION THAT YOU LEARNED LATER ON OR --

24 A. THE UNDERSTANDING IN REVIEWING WHAT TRANSPIRED
25 AND THIS IS BASED ON COMMENTS AND REPORTS BY MCCORMICK
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 114

1 AND OTHERS IS IF WE TAKE A STEP BACK, THE TRANSACTION
2 WAS INITIALLY TO CLOSE PRIOR TO THANKSGIVING.

3 Q. '06?

4 A. '06, CORRECT, JUST AS THE COMPANY WAS
5 TRANSITIONING DOWN TO THE SOUTH FOR THE WINTER SEASON.

6 Q. RIGHT.

7 A. THE ATTORNEYS ON BOTH SIDES DIDN'T GET ALONG.
8 AND NOT POINTING THE FINGERS AT ANYONE IN PARTICULAR, IT
9 TOOK MONTHS TO CONCLUDE THE TRANSACTION. IT'S MY
10 CONTENTION, AND THIS IS PERSONAL, AND THEN SOMEWHAT
11 CORROBORATED BY JUST INPUT FROM OTHERS, IS THAT SANTOS
12 BASICALLY CHECKED OUT FROM A DAY-TO-DAY OPERATION. HE
13 WAS MOTIVATED TO SELL. DIDN'T APPLY THE PROPER
14 AMENDMENTS AND WHATNOT TO THE GROUND. WHEREBY THE FIRST
15 CROP CAME UP WAS SUCCESSFULLY PROCESSED AND SOLD. BUT
16 THE SUBSEQUENT FROM WHAT I UNDERSTAND FIVE TO SEVEN
17 CROPS FAILED DUE TO LACK OF WHATEVER THEY ADD TO THE
18 GROUND TO KEEP THE GROUND UP.

19 Q. SO, IN OTHER WORDS, WHEN YOU INITIALLY CLOSED
20 THE DEAL, THERE WAS SOME CROPS THAT WERE HARVESTED BUT

Cinelli.ROUGH~1.TXT

21 THEN THERE WAS A PROBLEM WITH PRODUCTION THAT WAS DUE TO
22 POOR CULTURAL PRACTICES THAT HAD OCCURRED PRIOR TO THE
23 ACQUISITION?

24 A. THAT'S THE CONCLUSION BEING DRAWN.

25 Q. WHO DREW THAT CONCLUSION, WHO WAS THE AG EXPERT
Rough Draft - 115 NONCERTIFIED ROUGH DRAFT

1 SO TO SPEAK THAT WAS MAKING THAT CONCLUSION?

2 A. MCCORMICK, PARSON, PEOPLE WHO WERE MORE
3 FAMILIAR WITH WHAT WAS GOING ON IN THE FIELD. THERE IS
4 A BIG LAUNDRY LIST OF ITEMS THAT'S BEING PUT TOGETHER
5 REGARDING MISREPRESENTATIONS OF THE ORIGINAL DEAL.

6 Q. IT WASN'T DUE TO HOW SOMETIMES THERE IS A CROP
7 FAILURE DUE TO WEATHER CONDITIONS, IT WAS OTHER PEOPLE
8 IN THE AREA WERE HAVING GOOD CROPS BUT THESE CROPS WERE
9 FAILING AND IT WAS --

10 A. YES, THAT'S MY UNDERSTANDING THAT WAS THE CASE.

11 Q. AND THE CONCLUSION WAS REACHED THAT THERE
12 WERE --

13 A. THAT THE AREA WAS FULL OF WEEDS AND WHATNOT.

14 Q. SO THAT IT WASN'T -- THE GROUND WASN'T BEING
15 FARMED IN A FORMAL LIKE FASHION AS THEY SAY. AND THAT
16 WAS DURING THE PERIOD OF THANKSGIVING TO CLOSING OF THE
17 ACQUISITION?

18 A. YEAH. AND THE RESULTS OF THAT BASICALLY
19 MANIFESTED ITSELF DURING THE FIRST HALF-DOZEN CROP
20 CYCLES.

21 Q. WERE THERE A LOT OF CLAIMS ON CROPS THAT WERE
22 SOLD, IN OTHER WORDS, DURING THE COURSE OF THE FRESH 'N
23 HEALTHY OPERATIONS, WOULD YOU GET CLAIMS FROM CUSTOMERS
24 WHERE YOU HAD TO REDUCE PRICE BECAUSE THE CROPS DIDN'T
25 ARRIVE WELL AT DESTINATION DUE TO --

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Cinelli.ROUGH~1.TXT

1 A. IT'S MY UNDERSTANDING THAT SOME OF THE, AND
2 THIS IS HEARSAY, SOME OF THE CROPS WERE RETURNED. AND I
3 DON'T KNOW THE REASON FOR THAT.

4 Q. SO THERE WERE CLAIMS THAT YOU DON'T KNOW THE
5 DETAILS ABOUT THAT?

6 A. I DO NOT.

7 Q. WHO WOULD KNOW THAT INFORMATION?

8 A. PROBABLY PAVICH. AND THE GENTLEMAN THAT RAN
9 THE PLANT, JULIO, AND I DON'T KNOW WHAT JULIO'S LAST
10 NAME IS.

11 Q. WOULD HAVE THE INFORMATION ABOUT THE CLAIMS?

12 A. ABOUT THE QUALITY OF THE PRODUCT THAT WAS
13 COMING OUT OF THE PLANT.

14 MS. ANASTASSIOU: SO LET'S MARK THIS AS
15 EXHIBIT 9.

16 (EXHIBIT SC-9 MARKED.)

17 BY MS. ANASTASSIOU:

18 Q. AND I HAVE JUST HANDED THE WITNESS A DOCUMENT
19 MARKED SC NO. 9, BATES STAMPED SNO 84 THROUGH 92. IT
20 CONSISTS OF AN ANNOUNCEMENT BY FRESH 'N HEALTHY ABOUT
21 GOURMET VEG-PAQ AND SOME CORPORATE INFORMATION ABOUT
22 GOURMET VEG-PAQ I'D LIKE TO GO OVER WITH YOU?

23 A. I'VE NEVER SEEN THIS, SO.

24 Q. OKAY. THE FIRST DOCUMENT IS A NOTICE TO
25 VENDORS FROM FRESH 'N HEALTHY FARMS BY MARK MCCORMICK,
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 117

1 CFO FRESH 'N HEALTHY FARMS. IF YOU CAN TAKE AN
2 OPPORTUNITY TO READ THAT AND LET ME KNOW IF YOU HAVE
3 EVER SEEN THAT PRIOR TO TODAY?

4 A. NO, I HAVE NOT.

5 Q. SO YOU WEREN'T CONSULTED AS FAR AS AN

Cinelli.ROUGH~1.TXT

6 ANNOUNCEMENT TO TRADE VENDORS AS TO --

7 A. NO.

8 Q. -- WHAT THEY WERE DOING ABOUT THE ACQUISITION?

9 A. NO.

10 Q. WAS THERE ANY KIND OF GENERAL PRESS RELEASE
11 THAT WENT OUT AT THE TIME GOURMET VEG-PAQ WAS ACQUIRED?

12 A. NOT TO MY KNOWLEDGE.

13 Q. SO --

14 A. IF IT DID HAPPEN THEN IT WOULD BE UNDER THE
15 AUSPICES CHAD HAGEN.

16 Q. SO YOU WEREN'T INVOLVED IN ANY GENERAL PRESS
17 RELEASE AND YOU WEREN'T INVOLVED IN MAKING VENDOR
18 ANNOUNCEMENTS?

19 A. NOT AT ALL.

20 Q. AND SO WHEN FRESH 'N HEALTHY OPENED ITS DOORS,
21 GOURMET VEG-PAQ CLOSED DOWN AND FRESH 'N HEALTHY OPENED
22 ITS DOORS, WAS THERE ANY KIND OF ATTEMPT TO INTRODUCE
23 FRESH 'N HEALTHY TO THE INDUSTRY OR WHAT WAS DONE?

24 A. COULDN'T TELL YOU.

25 Q. WHO HAVE BEEN INVOLVED IN THAT OTHER THAN --
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 118

1 A. MARK WILLIAMS, MARK MCCORMICK. TOM PAVICH AND
2 CHAD HAGEN. AND I GUESS PARSON TOO.

3 Q. THEY WOULD HAVE BEEN DOING THE INDUSTRY
4 ANNOUNCEMENTS AND GENERAL PRESS RELEASES AND YOU WEREN'T
5 CONSULTED ABOUT HOW IT WAS PRESENTED?

6 A. NO.

7 Q. AND WHAT DID -- WHAT WAS YOUR UNDERSTANDING OF
8 THE OWNERSHIP OF GOURMET VEG-PAQ AT THE TIME, IT WAS AN
9 ASSET PURCHASE, RIGHT, IT WASN'T A CORPORATE --

10 A. YEAH, MARTINEZ, THEY WERE HAVING FIVE OR SIX
11 DIFFERENT LEGAL ENTITIES ALL OF WHICH WERE OWNED BY

Cinelli.ROUGH~1.TXT

12 EITHER MARTINEZ OR MEMBERS OF HIS FAMILY. AND THEY WERE
13 SET UP I'M ASSUMING FOR TAX REASONS AND THE FRESH 'N
14 HEALTHY BASICALLY ACQUIRED THE ASSETS OF EACH OF THOSE
15 LEGAL ENTITIES. ONE OF THE ENTITIES, I CAN'T REMEMBER
16 WHICH ONE, WAS ACTUALLY DONE ON A STOCK PURCHASE BASIS
17 FOR TAX REASONS, THE REST WERE PURE ASSET SALES.

18 Q. AND GOURMET VEG-PAQ INC. WASN'T A STOCK
19 PURCHASE, IT WAS AN ASSET PURCHASE?

20 A. IT WAS AN ASSET PURCHASE, CORRECT.

21 Q. AND WHO WAS INVOLVED IN KIND OF SETTING UP
22 TRADE CREDIT WITH PEOPLE AT SNOW SEED, THAT WOULD HAVE
23 BEEN MCCORMICK AND WILLIAMS?

24 A. MCCORMICK, WILLIAMS, PAVICH AND PARSON.

25 Q. AND SO HERE IT LOOKS LIKE, IF YOU LOOK AT SNO
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 119

1 85, IT LOOKS LIKE THERE IS AN ENTITY CALLED GOURMET
2 VEG-PAQ CORPORATION, AND THEN IF YOU LOOK AT SNO 86
3 THERE IS ALSO ENTITIES CALLED GOURMET VEG-PAQ, INC AND
4 DO YOU KNOW WHICH ONE THAT FRESH 'N HEALTHY ACQUIRED
5 ASSETS FROM OR WAS IT BOTH?

6 A. I BELIEVE IT WAS INC. DO YOU HAVE THE ASSET
7 PURCHASE AGREEMENT?

8 Q. NO.

9 A. OKAY. THAT'S ONE OF THE THINGS ON MY TO DO
10 LIST.

11 Q. OKAY. AND THEN DO YOU KNOW THE NAMES OF ANY OF
12 THE OTHER ENTITIES THAT YOU ACQUIRED ASSETS FROM?

13 A. THERE WAS GILROY MACHINE. THERE WAS SOVENCHA
14 (PHONETIC). THERE WERE THREE OTHERS, I BELIEVE. I
15 CAN'T RECALL OFF THE TOP.

16 Q. HERE'S SOME MORE ANNOUNCEMENTS. LET'S MARK

Cinelli.ROUGH~1.TXT
17 THIS AS SC NO. 10.

18 (EXHIBIT SC-10 MARKED.)

19 BY MS. ANASTASSIOU:

20 Q. I HAVE HANDED THE WITNESS A DOCUMENT THAT IS
21 MARKED SC NO. 10, IT CONSISTS OF THREE PAGES
22 BATES-STAMPED SNO 93, 94 AND 95. IF YOU CAN TAKE AN
23 OPPORTUNITY TO LOOK AT THAT?

24 A. I HAVE.

25 Q. HAVE YOU PREVIOUSLY SEEN ANY OF THIS
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 120

1 CORRESPONDENCE PRIOR TO TODAY?

2 A. NO.

3 Q. OKAY. AND SO AGAIN THIS LETTER FROM SANTOS
4 MARTINEZ WASN'T SOMETHING THAT HE RAN BY THE FRESH 'N
5 HEALTHY BOARD OR TALKED TO THE BOARD ABOUT, HE JUST PUT
6 IT TOGETHER HIMSELF ON HIS OWN?

7 A. I WOULD IMAGINE SO. HE'S COPYING MARK WILLIAMS
8 ON IT, BUT I NEVER SAW THIS.

9 Q. WHO IS JAMES GUMBERG, ESQ., AND PATANE GUMBERG?

10 A. THAT'S SANTOS'S ATTORNEY. PATANE GUMBERG IS
11 THE NAME OF THEIR FIRM.

12 Q. SO SANTOS SENT THESE LETTERS OUT BUT I GUESS HE
13 COPIED MARK WILLIAMS AS CEO BUT YOU WEREN'T AWARE OF
14 THIS GOING ON?

15 A. UH-UH.

16 Q. AND THERE WASN'T ANY KIND OF GAME PLAN, AGAIN,
17 THERE MAY HAVE BEEN BUT YOU WEREN'T AWARE OF EXACTLY
18 WHAT IT WAS AS FAR AS INTRODUCING THE TRADE TO FRESH 'N
19 HEALTHY?

20 A. NO.

21 Q. AND YOU WERE INVOLVED IN PRIMARILY MARKETING
22 FRESH 'N HEALTHY TO THE INVESTMENT TRADE; IS THAT --

Cinelli.ROUGH~1.TXT

23 A. YEAH, REALLY EXTERNAL RELATIONSHIPS LOOKING AT
24 OTHER POSSIBLE ACQUISITIONS. AND THEN WITH THOSE
25 ACQUISITIONS STRUCTURE AND FINANCING OF THOSE.
[Rough Draft - 121] NONCERTIFIED ROUGH DRAFT

1 Q. BUT NOT DEALING WITH THE DAY-TO-DAY VENDORS
2 OR --

3 A. NO.

4 Q. -- BUSINESS OF FRESH 'N HEALTHY?

5 A. UH-UH.

6 Q. YOU HAD NO INVOLVEMENT IN THAT?

7 A. NO.

8 Q. WAS COMERICA BANK -- IS COMERICA AWARE THAT YOU
9 WEREN'T REALLY INVOLVED IN THE DAY-TO-DAY BUSINESS
10 OPERATIONS OF FRESH 'N HEALTHY PRIOR TO THE CLOSING?

11 A. I BELIEVE SO.

12 Q. AND WHY ARE THEY LOOKING TO YOU TO EXECUTE
13 RESOLUTIONS THEN?

14 A. I'M THE LAST MAN STANDING.

15 Q. SO THAT YOU ARE THE ONLY PERSON THAT THEY CAN
16 GET INTO CONTACT WITH, IS THAT WHY?

17 A. MARK WILLIAMS FLED THE COUNTRY, HE RESIGNED
18 FROM THE BOARD AND HIS POSITION OF CEO, ALL THE OTHER
19 EMPLOYEES HAVE BEEN LET GO AND I'M TRYING TO BE ETHICAL
20 ABOUT, YOU KNOW, THE WIND DOWN.

21 Q. AND YOU SAID THAT WILLIAMS RESIGNED HIS
22 POSITION. WAS THERE A FORMAL LETTER OF RESIGNATION?

23 A. HE SENT AN EMAIL.

24 Q. DO YOU HAVE A COPY OF THAT EMAIL?

25 A. I BELIEVE I DO.
[Rough Draft - 122] NONCERTIFIED ROUGH DRAFT

1 Q. MAYBE YOU CAN BRING THAT TO YOUR NEXT

Cinelli.ROUGH~1.TXT

2 DEPOSITION. DO YOU REMEMBER THE DATE OF THE EMAIL?

3 A. NO, I DON'T.

4 MS. ANASTASSIOU: LET'S MARK THIS AS SC NO. 11.

5 (EXHIBIT SC-11 MARKED.)

6 MS. ANASTASSIOU: SC-11 ARE EXCERPTS FROM THE

7 FRESH 'N HEALTHY WEBSITE, SNO 47 AND 48. WERE YOU

8 INVOLVED IN CREATING THE WEBSITE FOR FRESH 'N HEALTHY?

9 THE WITNESS: NO.

10 BY MS. ANASTASSIOU:

11 Q. WHO WAS INVOLVED IN DOING THAT?

12 A. CHAD HAGEN.

13 Q. AND DID CHAD REPORT --

14 A. TO MARK WILLIAMS.

15 Q. HE REPORTED TO MARK WILLIAMS? OKAY. AND SO

16 HOW WAS THE DECISION MADE AS TO WHAT WENT ON THE WEBSITE

17 OR HOW FRESH 'N HEALTHY PRESENTED ITSELF?

18 A. I THINK IT WAS REALLY DRIVEN BY CHAD'S VIEW OF

19 WHAT SHOULD BE REPRESENTED AND DEVELOPING A LOGO,

20 DEVELOPING THE CONTENT.

21 Q. WAS THERE ANY APPROVAL OF THAT BY THE BOARD OF

22 DIRECTORS OR JUST CHAD WORKING WITH WILLIAMS?

23 A. CHAD WORKING WITH WILLIAMS.

24 Q. AND THEN HOW MUCH REPORTING WENT ON TO THE BANK

25 AS FAR AS WHAT FRESH 'N HEALTHY WAS DOING? YOU SAID

□ Rough Draft - 123

NONCERTIFIED ROUGH DRAFT

1 THAT THEY DIDN'T HAVE FINANCIAL INFORMATION. DID THEY

2 HAVE OTHER INFORMATION ON AN ONGOING BASIS AS TO WHAT

3 WAS GOING ON?

4 A. THEY WERE PROVIDED RECEIVABLE AGINGS AND

5 PAYABLE AGINGS. AND THEN I KNOW THAT THERE WAS DIALOGUE

6 BETWEEN THE BANK AND WILLIAMS AND MCCORMICK ON AN

7 UPDATED BASIS BECAUSE RELATIVELY QUICKLY THERE WERE

Cinelli.ROUGH~1.TXT

8 OVERDRAFTS IN THE ACCOUNT.

9 Q. SO YOU ARE SAYING BASICALLY FROM INCEPTION
10 THERE WERE -- THERE WAS A DIALOGUE GOING AS OVERDRAFTS
11 HAPPENED?

12 A. I DON'T THINK THE OVERDRAFTS CAME IN UNTIL
13 PROBABLY THE SEPTEMBER TIME FRAME.

14 Q. WASN'T MCCORMICK GONE BY THEN?

15 A. I THINK MIKE MCCORMICK TOOK OFF IN AUGUST.

16 Q. SO YOU HAD PREVIOUSLY SAID THAT THE BANK AND
17 WILLIAMS AND MCCORMICK WERE HAVING DIALOGUE?

18 A. YEAH, I THINK JUST UPDATED AS TO WHAT WAS GOING
19 ON AND WHATNOT. I DON'T BELIEVE THERE WERE OVERDRAFTS
20 CERTAINLY IN THE JUNE, JULY PERIOD BECAUSE THAT WAS WHEN
21 THE EXTRA MILLION-AND-A-HALF CAME IN, EQUITY CAME IN.
22 BUT THAT WAS ABSORBED RELATIVELY QUICKLY WITH PAST DUE
23 PAYABLES.

24 Q. DO YOU KNOW WHAT KIND OF DIALOGUES THAT
25 WILLIAMS AND MCCORMICK AND THE BANK WERE HAVING PRIOR TO
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 124

1 THAT, TO OVERDRAFTS HAPPENING, I MEAN WAS THE BANK
2 GETTING UPDATED AS FAR AS WHAT THE BUSINESS PLAN WAS OR
3 ANYTHING LIKE THAT?

4 A. YEAH, I BELIEVE THE COMPANY WAS PROVIDING SALES
5 REPORTS, AGAIN, AGINGS, RECEIVABLES AND PAYABLES. AND I
6 DON'T KNOW WHAT OTHER SPECIFIC CONVERSATIONS THE BANK
7 WAS HAVING WITH THE MANAGEMENT TEAM.

8 Q. DID WILLIAMS EVER TELL YOU WHEN HE WAS -- WHAT
9 KIND OF CONVERSATIONS HE WAS HAVING?

10 A. NO, I JUST KNOW THAT CERTAINLY ALMOST FROM THE
11 OUTSET MARK WAS LOOKING FOR ADDITIONAL CAPITAL TO COME
12 INTO THE BUSINESS.

Cinelli.ROUGH~1.TXT

13 Q. WHY WAS THAT?

14 A. AGAIN THIS IS SPECULATION, WHICH AGAIN IS A
15 POTENTIAL ACTION WHICH I'D LIKE OFF THE RECORD, BUT I
16 GUESS IT'S YOUR CALL, EFFIE.

17 MS. ANASTASSIOU: OKAY. OFF THE RECORD.

18 (OFF THE RECORD.)

19 MS. ANASTASSIOU: ON THE RECORD.

20 BY MS. ANASTASSIOU:

21 Q. AND SO YOU INDICATED THAT AT THE TIME THAT THE
22 TRANSACTION WAS CONSUMMATED WITH GOURMET VEG-PAQ THAT
23 THERE WAS A CERTAIN BALANCE SHEET THAT WAS PROVIDED AS
24 TO WHAT THE PAYABLES WERE AND RECEIVABLES.

25 A. UH-HUH.

□ Rough Draft - 125

NONCERTIFIED ROUGH DRAFT

1 Q. AND THE PAYABLES ON THE BALANCE SHEET, WHAT WAS
2 THE AMOUNT THAT WAS SHOWN AS OF THE DATE OF CLOSING?

3 A. ZERO. NO, \$50,000.

4 Q. APPROXIMATELY \$50,000. AND SUBSEQUENTLY YOU
5 LEARNED THAT THAT NUMBER MAY HAVE BEEN INCORRECT?

6 A. THAT'S CORRECT.

7 Q. AND THEN ALSO WAS THERE ON THE BALANCE SHEET A
8 CERTAIN REPRESENTATION REGARDING ACCOUNTS RECEIVABLE?

9 A. YES.

10 Q. AND HOW MUCH WAS THAT?

11 A. I BELIEVE A MILLION ONE.

12 Q. AND WAS THAT --

13 A. AND THEY WERE REPRESENTED TO BE ALL
14 COLLECTIBLE, WHICH WASN'T THE CASE.

15 Q. SO THERE WAS A 1.1 MILLION APPROXIMATELY AS
16 ACCOUNTS RECEIVABLE ALL COLLECTIBLE, AND IN FACT YOU
17 FOUND OUT THAT THAT WASN'T THE CASE?

18 A. CORRECT.

Cinelli.ROUGH~1.TXT

19 Q. AND APPROXIMATELY DO YOU KNOW APPROXIMATELY HOW
20 MUCH?

21 A. ABOUT 80,000 WAS NOT COLLECTIBLE.

22 Q. AND SO AS A RESULT OF THE FACT THAT THERE
23 WAS -- THAT THE BALANCE SHEET THAT THE COMPANY STARTED
24 OUT AT WAS NOT REPRESENTED AS IT WAS STATED AT CLOSING,
25 THEN WAS THERE AN ISSUE WITH RESPECT TO CASH FLOW FROM
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 126

1 THE START OF THE COMPANY?

2 A. YES.

3 Q. AND SO WHAT DID THE COMPANY DO TO TRY TO REMEDY
4 THAT?

5 A. RAISE ANOTHER MILLION AND A HALF OF EQUITY.

6 Q. AND WAS COMERICA BANK TOLD ABOUT THE ISSUE WITH
7 THE CASH FLOW EARLY ON?

8 A. OH, THEY COULD SEE IT BY THE RECEIPTS AND THE
9 PAYABLES COMING IN AND, YOU KNOW, THE MOVEMENT OF MONEY
10 IN AND OUT OF THE ACCOUNT.

11 Q. SO THEY WERE AWARE THAT THERE WAS A PROBLEM
12 FROM THE BEGINNING?

13 A. YEAH, CLEAR AT THE TIME THAT CASH FLOW WAS
14 STRAINED BECAUSE WE WERE BUILDING THE BUSINESS PRETTY
15 RAPIDLY AND RECEIVABLES WERE GROWING PRETTY RAPIDLY.
16 THE COLLECTION PERIOD FOR THE RECEIVABLES ARE ABOUT 45
17 DAYS, PAYABLES ABOUT 30 DAYS. IN A GROWTH COMPANY YOU
18 MAY BE CASH FLOW CONSTRAINED JUST BY PURE GROWTH. SO
19 THE CONCLUSION AT THE TIME WAS THE GROWTH IMPACTED THE
20 CASH FLOWS. BUT IT'S MY CONCLUSION THAT WHAT IMPACTED
21 THE CASH FLOWS WERE CERTAIN LEVEL OF UNRECORDED
22 LIABILITIES THAT HAD TO BE PAID UP AND MCCORMICK PAID
23 THEM AND ALL OF A SUDDEN IT SUCKED UP CASH.

Cinelli.ROUGH~1.TXT

24 Q. SO WAS WILLIAMS TALKING TO THE BANK ABOUT THIS
25 ISSUE AS IT WAS HAPPENING?
[Rough Draft - 127 NONCERTIFIED ROUGH DRAFT

1 A. I WOULD IMAGINE BOTH WILLIAMS AND MCCORMICK
2 WERE.

3 Q. AND DO YOU KNOW WHETHER THE BANK INCREASED
4 FRESH 'N HEALTHY'S LINE OF CREDIT TO TRY AND ASSIST THEM
5 IN DEALING WITH THE PROBLEM?

6 A. BECAUSE THE LINE WAS BASED ON RECEIVABLE
7 BALANCES, THERE WAS ENOUGH AVAILABILITY UNDER THE LINE
8 AS RECEIVABLES GREW.

9 Q. BUT THEN AT SOME POINT IN TIME THERE WASN'T
10 ENOUGHLY LIQUIDITY UNDER THE LINE, CORRECT?

11 A. CORRECT.

12 Q. AND WHEN DID THAT OCCUR?

13 A. PROBABLY SEPTEMBER, SEPTEMBER, OCTOBER.

14 Q. AND THAT'S WHEN BURBANK STARTED GETTING
15 INVOLVED AT THAT POINT?

16 A. PROBABLY OCTOBER, NOVEMBER.

17 Q. AND DID BURBANK HAVE ANY SUGGESTIONS FOR THE
18 COMPANY OTHER THAN SHUTTING IT DOWN?

19 A. HE AND WILLIAMS WORKED ON ELIMINATING THE
20 FARMING OPERATION WHEREBY ALL THE PRODUCE THAT WAS
21 PROCESSED, HISTORICALLY, SANTOS MARTINEZ ONLY PROCESSED
22 WHEN HE GREW, IT WAS A VERTICAL OPERATION. UNDER
23 WILLIAMS AND PARSON AND, YOU KNOW, WHOEVER ELSE WAS IN
24 THE FARMING OPERATION, AND CERTAINLY THE QUALITY OF THE
25 LAND AS WE TALKED ABOUT BEFORE, CREATED DISMAL RESULTS
[Rough Draft - 128 NONCERTIFIED ROUGH DRAFT

1 IN FARMING AND THERE WAS A DECISION IN THE FALL TO GET
2 OUT OF THE FARMING BUSINESS AND RELY SOLELY ON OUTSIDE
3 SUPPLIERS TO PROVIDE INVENTORY TO FRESH 'N HEALTHY.

Cinelli.ROUGH~1.TXT

4 Q. AND THAT'S WHEN THE DEALS WERE MADE WITH ASA
5 FARMS AND BRAGA RANCH?

6 A. I BELIEVE SO.

7 Q. WERE YOU INVOLVED IN STRUCTURING THOSE DEALS?

8 A. NO.

9 Q. BURBANK WAS INVOLVED IN STRUCTURING?

10 A. I DON'T BELIEVE SO.

11 Q. WHO --

12 A. WHEN YOU SAY THE DEALS, BASICALLY THE TRADE
13 ARRANGEMENTS?

14 Q. THE ARRANGEMENTS WITH -- YOU INDICATED THAT
15 THEY DECIDED TO GET OUT OF THE FARMING BUSINESS AND TO
16 GO DIRECT --

17 A. TO GROWERS.

18 Q. -- TO THE GROWERS. AND WAS -- WEREN'T THOSE
19 GROWERS ASA FARMS AND BRAGA RANCHES?

20 A. YES.

21 Q. WHAT I WAS ASKING YOU WAS WHO WAS INVOLVED IN
22 STRUCTURING THOSE DEALS ON BEHALF OF FRESH 'N HEALTHY,
23 WAS THAT WILLIAMS AND BURBANK?

24 A. NO, BURBANK WASN'T INVOLVED. WILLIAMS,
25 MCCORMICK EARLY ON AND PARSON AND TO SOME EXTENT PAVICH.
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 129

1 Q. BURBANK JUST SUGGESTED THE MODEL BUT DIDN'T GET
2 INVOLVED IN THE DETAILS?

3 A. THE PURCHASING -- BURBANK GOT INVOLVED IN
4 LOOKING AT THE BUSINESS TO RESTRUCTURE IT TO BEGIN WITH,
5 REDUCING THE OVERHEAD SO THAT THE COMPANY WOULD GENERATE
6 POSITIVE CASH FLOW. THE DECISION, I DON'T KNOW IF
7 BURBANK WAS INVOLVED, I BELIEVE IT PREDATED BURBANK.
8 WILLIAMS MADE THE DECISION TO GET OUT OF THE FARMING

Cinelli.ROUGH~1.TXT

9 BUSINESS ALTOGETHER AND THEN AT THAT TIME RELY ON
10 OUTSIDE SUPPLIERS.

11 Q. SO IT WAS PRIOR TO BURBANK THAT HE MADE THAT
12 DECISION?

13 A. CORRECT, CORRECT.

14 Q. AND THEN BUT BURBANK VALIDATED IT OR -- BECAUSE
15 I THOUGHT YOU SAID THAT BURBANK AND WILLIAMS GOT
16 TOGETHER AND DECIDED THAT THEY SHOULD GET OUT OF
17 FARMING?

18 A. BURBANK WASN'T PART OF THE DECISION TO GET OUT
19 OF FARMING, BURBANK WAS TRYING TO ASSIST IN
20 RESTRUCTURING THE BUSINESS TO GENERATE A POSITIVE CASH
21 FLOW. PART AND PARCEL OF THAT WAS A DECISION THAT
22 WILLIAMS MADE JUST BEFORE THAT TO GET OUT OF THE FARMING
23 OPERATION.

24 Q. WHAT DID BURBANK DO TO, YOU KNOW, KIND OF GIVE
25 THE COMPANY AN OPPORTUNITY TO ACTUALLY RESTRUCTURE
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 130

1 ITSELF?

2 A. HE STARTED PUTTING TOGETHER SPREADSHEETS,
3 OVERHEAD, LAYOUTS AND WHAT THE BUSINESS WOULD LOOK LIKE
4 IN A REORGANIZED FASHION.

5 Q. BUT HE NEVER ALLOWED ANY OF THAT TO BE
6 IMPLEMENTED, RIGHT, THERE WAS NEVER ANY TIME TO
7 IMPLEMENT THAT OR REALLY TRY TO SEE --

8 A. HE WAS WORKING WITH WILLIAMS TO BASICALLY KEEP
9 DOWN THE OVERHEAD, ELIMINATE THE FARMING OPERATION,
10 DECISION WAS TO LET CHAD HAGEN GO AND SOME OF THE OTHER,
11 YOU KNOW, OFFICERS.

12 Q. BUT ESSENTIALLY THERE WAS NEVER -- IT WAS NEVER
13 CARRIED OUT BECAUSE YOU NEVER DID THE WINTER SEASON, SO
14 THERE WAS NEVER AN OPPORTUNITY FOR THE GAME PLAN TO

Cinelli.ROUGH~1.TXT

15 WORK?

16 A. THERE WAS A TRANSITION DOWN TO THE SOUTH IN
17 NOVEMBER.

18 Q. RIGHT.

19 A. AND THE SUPPLY, SUPPLY CHAIN OR SUPPLY LINES
20 CAME FROM OUTSIDE GROWERS.

21 Q. RIGHT.

22 A. AND -- BUT AT THE TIME, THE GROWING OPERATION
23 HAD BEEN SHUT DOWN, SO FRESH 'N HEALTHY WASN'T GROWING
24 ANYTHING FOR ITS OWN ACCOUNT.

25 Q. RIGHT. BUT IT WAS IMPLEMENTING THIS NEW GAME
ROUGH Draft - 131 NONCERTIFIED ROUGH DRAFT

1 PLAN TO GET OUT OF THE FARMING BUSINESS, AND WHAT I'M
2 SAYING IS, THAT YOU NEVER ALLOWED IT TO GO THROUGH THE
3 SEASON, THAT WOULD HAVE BEEN THE WINTER SEASON THAT
4 WOULD HAVE STARTED THE END OF DECEMBER, EARLY -- END OF
5 NOVEMBER, EARLY DECEMBER AND GONE THROUGH MARCH. AND
6 THAT WAS NEVER IMPLEMENTED BECAUSE THEY SHUT IT DOWN
7 AFTER ONLY ABOUT A MONTH AND A HALF OF THE SEASON,
8 RIGHT?

9 A. JUST TO BE CLEAR, THE DECISION TO GET OUT OF
10 THE FARMING BUSINESS PREDATED THE MOVE DOWN TO THE
11 SOUTH, MOVING DOWN TO THE SOUTH.

12 Q. BUT JUST TO BE CLEAR, THE FARMING BUSINESS WHEN
13 FRESH 'N HEALTHY WAS IN SALINAS AND THE SURROUNDING
14 AREAS HERE IN NORTHERN CALIFORNIA, THEY WERE IN THE
15 FARMING IN THE SPRING AND SUMMER?

16 A. CORRECT. AND I THINK IT WAS PROBABLY LATE
17 SUMMER THAT WILLIAMS DECIDED TO GET OUT OF THE FARMING
18 BUSINESS.

19 Q. RIGHT. AND AT THAT POINT IN TIME THEY WERE

Cinelli.ROUGH~1.TXT
20 GETTING READY TO TRANSITION DOWN SOUTH?

21 A. CORRECT.

22 Q. MY POINT TO YOU IS, THE COMPANY WAS NEVER
23 ALLOWED TO OPERATE THROUGH THE FULL SEASON OF BEING OUT
24 OF THE FARMING BUSINESS --

25 A. THAT'S CORRECT.
NONCERTIFIED ROUGH DRAFT
Rough Draft - 132

1 Q. -- BEFORE IT WAS SHUT DOWN, RIGHT?

2 A. CORRECT.

3 Q. AND WHAT WAS MR. BURBANK'S RATIONALE FOR NOT
4 ALLOWING THE COMPANY TO GO THROUGH A FULL SEASON OF
5 OPERATION DOWN IN THE DESERT TO SEE WHETHER OR NOT THEY
6 COULD TURN IT AROUND JUST BEING A MARKETING COMPANY?

7 A. THE DECISION THAT BURBANK, OR THE CONCLUSIONS
8 DRAWN BY BOTH BURBANK AND THE BANK. IN ADDITION, I
9 THINK TO WILLIAMS IS THAT THE COMPANY WAS GENERATING
10 NEGATIVE CASH FLOW ON A MONTHLY BASIS, INCURRING
11 ADDITIONAL LIABILITIES, AND WITHOUT AN INFUSION OF
12 CAPITAL, IT WAS A DYING BUSINESS. YOU KNOW, WILLIAMS
13 WAS OPERATING THIS BUSINESS AT A LOSS. AND YOU CAN ONLY
14 TAKE LOSSES FOR SO LONG.

15 Q. AND JUST BEING A MARKETING COMPANY WASN'T
16 ENOUGH?

17 A. WELL, IT'S A PROCESSING COMPANY AND A MARKETING
18 COMPANY.

19 Q. RIGHT. NOBODY HAD DONE THE MATH TO FIGURE OUT
20 WHETHER IT WOULD BE PROFITABLE OPERATING IT AS A
21 PROCESSING MARKETING COMPANY ALONE?

22 A. WILLIAMS, MCCORMICK HAD DONE SOME PRELIMINARY
23 STUFF BEFORE HE TOOK OFF. WILLIAMS WAS OVERSEEING
24 TRYING TO PUT TOGETHER A NEW BUDGET IN CONJUNCTION WITH
25 BURBANK AND WITH SOME ASSISTANCE FROM CHANDRA. THEY CUT

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NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 133

1 SOME OF THE OVERHEAD, WHICH AT LEAST ON PAPER SUGGESTED
2 THAT SEPTEMBER WAS A PROFITABLE MONTH. SO THEY THOUGHT
3 SOME OF THE ACTIONS THAT WERE TAKEN ARE WORKING. BUT
4 THEN IT CONTINUED TO SLIDE IN THE SUBSEQUENT MONTHS.
5 AND IN TRANSITION DOWN TO THE DESERT DOWN TO EL CENTRO
6 CONTINUED THE POOR OPERATING PERFORMANCE.

7 Q. AND THERE WERE CONTRACTS THAT WERE ENTERED INTO
8 BETWEEN FRESH 'N HEALTHY AND BRAGA AND ASA FARMS FOR THE
9 DESERT SEASON, RIGHT?

10 A. I BELIEVE SO.

11 Q. THAT WAS YOUR UNDERSTANDING?

12 A. YES.

13 Q. WHO TOOK OVER THE CONTRACTS ONCE FRESH 'N
14 HEALTHY SHUT DOWN, WAS THAT SANTOS MARTINEZ?

15 A. I DON'T KNOW.

16 Q. DO YOU KNOW WHAT HAPPENED WITH THE CONTRACTS?

17 A. WELL, FRESH 'N HEALTHY WASN'T BUYING PRODUCT
18 AND CERTAINLY A NUMBER OF THE SUPPLIERS ARE OWED MONEY
19 FROM FRESH 'N HEALTHY. AS TO WHAT THE FARMERS DID WITH
20 THE ADDITIONAL PRODUCT, I DON'T KNOW.

21 Q. SO YOU DON'T KNOW WHETHER SANTOS CAME IN AND
22 STARTED TAKING THEIR CROPS AND MARKETING THEM?

23 A. I DON'T KNOW.

24 Q. DO YOU KNOW WHAT SANTOS IS CURRENTLY DOING?

25 A. AS FAR AS I HEAR, AGAIN THIS IS HEARSAY, HE'S
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 134

1 SECURED NEW FARMLAND, HE'S GROWING, WE UNDERSTAND THAT
2 HE IS PROCESSING.

3 Q. HE'S PROCESSING OUT OF WHAT FACILITY?

4 A. I DON'T KNOW. I DON'T KNOW.

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5 Q. IS HE USING ANY OF THE FACILITIES THAT FRESH 'N
6 HEALTHY WAS FORMERLY USING?

7 A. HE CAN'T USE THE PROCESSING FACILITY AT EL
8 CENTRO. BUT HE -- OBVIOUSLY HE'S PROCESSING SOMEWHERE
9 BECAUSE HE TOOK THE EQUIPMENT OUT OF FRESH 'N HEALTHY.
10 AND I DON'T BELIEVE AT THIS TIME OF THE YEAR HE'S
11 PROCESSING UP IN HOLLISTER BECAUSE TRANSPORTATION.

12 Q. AND THE HOLLISTER AND GILROY FACILITIES, HAVE
13 THEY BEEN TAKEN BACK BY SANTOS?

14 A. YES.

15 Q. WHEN DID THAT HAPPEN?

16 A. WITHIN THE LAST 60 DAYS.

17 Q. AND WAS THAT SOMETHING WHERE SANTOS JUST CAME
18 IN AND TOOK IT OVER OR HOW DID THAT HAPPEN?

19 A. PRETTY MUCH JUST TOOK THEM OVER BECAUSE THERE
20 WERE LEASES IN ARREAR, LEASE PAYMENTS IN ARREAR.

21 Q. AND DO YOU KNOW WHEN THAT HAPPENED?

22 A. I BELIEVE IN JANUARY, JANUARY, FEBRUARY.

23 Q. AND WHEN DID FRESH 'N HEALTHY OFFICIALLY SHUT
24 DOWN ITS STORES?

25 A. SOMETIME IN JANUARY. I THINK THE LAST PAYROLL
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 135

1 WAS DECEMBER 31.

2 Q. AND THEN SHORTLY AFTER THAT, THEY JUST MOVED
3 ALL THE FURNITURE AND STUFF OUT OR IS THERE FURNITURE
4 STILL THERE OR WHAT HAPPENED?

5 A. FOR THE MOST PART, AS FAR AS I KNOW, AGAIN THIS
6 HAS BEEN HANDLED BY BURBANK, THEY ARE TRYING TO GET A
7 SENSE OF THE EQUIPMENT ASSETS AND ALL THE OTHER ASSETS
8 THAT ARE AVAILABLE, THE BANK IS TAKING CONTROL OF
9 RECEIVABLES. AND THE BANK AND BURBANK ARE FACILITATING
10 THIS AUCTION.

Cinelli.ROUGH~1.TXT

11 Q. WHAT ABOUT THINGS LIKE DESKS AND COMPUTERS AND
12 ALL OF THAT, WHO HAS ALL OF THAT EQUIPMENT?

13 A. THERE WAS A SALES OFFICE FOR BOTH MCCORMICK AND
14 WILLIAMS' OFFICE AND I THINK ALL THE EQUIPMENT WAS -- OR
15 ALL THE FURNITURE WAS LEASED AND I THINK THE FURNITURE
16 LEASING COMPANY CAME BACK AND REPOSSESSED THAT.

17 Q. WHAT ABOUT COMPUTERS?

18 A. BURBANK WAS SUPPOSED TO BASICALLY EITHER PULL
19 THE COMPUTERS OR PULL ALL THE INFORMATION OFF THE
20 COMPUTERS AND SERVER. AND HE SUPPOSEDLY HAS CDS WITH
21 ALL THE INFORMATION. I HAVE NOT RECEIVED A COPY OF
22 THAT.

23 Q. WHAT HAPPENED TO THEIR COMPUTERS?

24 A. I THINK HE BASICALLY LEFT THE PHYSICAL
25 COMPUTERS DOWN THERE BUT REMOVED ALL INFORMATION OFF
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 136

1 THEM.

2 Q. HE LEFT THEM AT THE FACILITY?

3 A. YES, LARGELY AT DAVIDSON.

4 Q. AND THAT'S IN GILROY?

5 A. YES. THE DAVIDSON PROPERTY.

6 Q. DO YOU KNOW WHO RAYMOND NAVA IS?

7 A. I BELIEVE HE'S RELATED TO SANTOS AND I THINK HE
8 WAS RUNNING THE GILROY MACHINE OPERATION.

9 Q. SO THERE IS SOME MACHINING EQUIPMENT THAT IS
10 BEING SOLD TO RAYMOND NAVA FOR \$60,000?

11 A. YES.

12 Q. DO YOU KNOW WHETHER OR NOT THAT'S FAIR VALUE
13 FOR THAT EQUIPMENT?

14 A. I COULDN'T TELL YOU. THAT WAS A PRICE
15 NEGOTIATED BY THE BANK AND BURBANK.

16 Cinelli.ROUGH~1.TXT
Q. WITH RAYMOND NAVA?

17 A. YES.

18 Q. AND DO YOU KNOW WHAT EFFORTS THEY MADE TO SELL
19 THAT EQUIPMENT TO THIRD PARTIES?

20 A. I QUESTION WHETHER THERE WAS A BIG EFFORT OR
21 NOT. I THINK NAVA APPROACHED BURBANK SAYING THAT HE
22 WANTED TO BUY IT. THAT WAS SUSPECT BECAUSE THERE IS TWO
23 VEHICLES THAT AMOUNTED TO AT LEAST \$60,000 IF NOT MORE
24 AND THERE WAS SOME SUBSEQUENT EQUIPMENT.

25 Q. AND DO YOU KNOW WHAT WAS THE VALUE OF THAT
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1 EQUIPMENT THAT'S BEING SOLD TO RAY NAVA ON THE BOOKS?

2 A. I THINK THE APPRAISED VALUE WAS, I DON'T KNOW,
3 A HUNDRED FIFTY THOUSAND, 200,000.

4 Q. AND THEN THEY SOLD IT TO HIM FOR 60?

5 A. YES. AGAIN, I DON'T KNOW WHAT THE LIQUIDATION
6 VALUE IS. AGAIN, MY VIEW IS THEY ARE TRYING TO
7 ACCELERATE ALL THIS STUFF AND TRYING TO GET A
8 LIQUIDATION VALUE FOR THIS AS OPPOSED TO A HIGHER VALUE.
9 BUT THEY SAY THEY ARE THE PROFESSIONALS, SO.

10 Q. AND DO YOU KNOW WHAT WAS SOLD TO -- THE
11 MACHINING EQUIPMENT, DO YOU KNOW WHAT'S INCLUDED IN
12 THAT? YOU SAID THERE WERE TWO VEHICLES?

13 A. I THINK THERE'S TWO VEHICLES.

14 Q. WHAT KIND OF VEHICLES ARE THEY?

15 A. I THINK THEY ARE TRUCKS. ONE OF WHICH WAS NEW,
16 BECAUSE IT WAS PURCHASED UNDER FRESH 'N HEALTHY. AND I
17 THINK MISCELLANEOUS REPAIR EQUIPMENT.

18 Q. DO YOU KNOW WHETHER SANTOS HAS PURCHASED ANY
19 OTHER ASSETS FROM FRESH 'N HEALTHY?

20 A. I WOULD IMAGINE HE'S GOING TO BE AN ACTIVE
21 BIDDER IN THE AUCTION.

Cinelli.ROUGH~1.TXT

22 Q. WHY DO YOU SAY THAT?

23 A. HE'S GEARING UP TO RESTART THE BUSINESS. HE
24 SOLD IT FOR X MILLIONS AND HE IS GOING TO PICK UP THE
25 PIECES FOR LESS THAN A MILLION DOLLARS.

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NONCERTIFIED ROUGH DRAFT

1 Q. AND I GUESS ANYTHING OVER THE 520,000 THAT --

2 A. THE AUCTIONEER IS GOING TO GET.

3 Q. IS GOING TO GET.

4 MS. ANASTASSIOU: TAKE A BRIEF BREAK AND THEN
5 WE ARE GOING TO NEED TO SHUT THIS DOWN FOR THE DAY
6 BECAUSE I KNOW YOU NEED TO GET GOING.

7 THE WITNESS: THANK YOU.

8 (OFF THE RECORD.)

9 BY MS. ANASTASSIOU:

10 Q. GOING BACK TO WHEN FRESH 'N HEALTHY WAS IN
11 BUSINESS, YOU SAID ITS GENERAL BUSINESS ACCOUNT WAS WITH
12 COMERICA?

13 A. CORRECT.

14 Q. WAS THE PAYROLL ACCOUNT WITH THEM AS WELL?

15 A. YES, THERE WAS.

16 Q. WAS THERE ANY OTHER BUSINESS ACCOUNTS WITH
17 ANYBODY ELSE OTHER THAN COMERICA?

18 A. NOT THAT I KNOW OF.

19 Q. AND SO BY VIRTUE OF SEEING CASH FLOW COMING IN
20 AND OUT OF ACCOUNTS, COMERICA ALSO HAD INFORMATION ABOUT
21 HOW THE COMPANY WAS DOING, CORRECT?

22 A. CORRECT.

23 Q. AND DID -- WHO WAS THE BANK OFFICER AT COMERICA
24 THAT WAS INVOLVED IN SERVICING THE ACCOUNT?

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25 A. IT BEGAN AS A LADY, MISAKO STEWART,
NONCERTIFIED ROUGH DRAFT

Cinelli.ROUGH~1.TXT

1 M-I-S-A-K-O, STEWART, AND HER BOSS, MIKE SILVA. I
2 BELIEVE MIKE HAS BEEN ASKED FOR A DEPOSITION.

3 Q. UH-HUH. AND THEY ARE THE ONES THAT WERE
4 INVOLVED IN INITIALLY STRUCTURING THE DEAL?

5 A. YES.

6 Q. AND THEY APPROVED THE LOAN?

7 A. YES.

8 Q. DO YOU KNOW WHAT KIND OF DUE DILIGENCE THE BANK
9 DID WHEN THEY APPROVED THE LOAN AS FAR AS REVIEWING, YOU
10 KNOW, THE ACQUISITION DOCUMENTS AND THAT KIND OF STUFF?

11 A. THEY WERE PART AND PARCEL TO ALL OF THE
12 DOCUMENTS OF THE ACQUISITION. THEY CERTAINLY REVIEWED
13 THE FINANCIAL INFORMATION, THE HISTORIC FINANCIAL
14 INFORMATION THAT WAS PROVIDED, THEY REVIEWED THE
15 PROJECTIONS AT THE TIME, THEY LOOKED AT THE RECEIVABLES
16 AND INVENTORY, HAD, YOU KNOW, EXTENSIVE CONVERSATIONS
17 WITH THE MANAGEMENT TEAM.

18 Q. AND HOW -- WHAT WAS THE PROJECTION FOR HOW
19 OPERATING CAPITAL WAS GOING TO BE COMING IN TO THE
20 COMPANY?

21 A. THE INITIAL CAPITALIZATION WAS -- WE WENT
22 THROUGH THE CAPITAL STRUCTURE TO BEGIN WITH.

23 Q. RIGHT. BUT THE OPERATING CAPITAL WAS JUST
24 GOING TO BE THE LINE OF CREDIT?

25 A. THE LINE OF CREDIT AND SOME ADDITIONAL CASH AND
NONCERTIFIED ROUGH DRAFT
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1 THEN AS I MENTIONED EARLIER --

2 Q. THE SUBSEQUENT FINANCING, THE 1.5?

3 A. YEAH, BUT PRIOR TO THAT THE ASSUMPTION WAS THAT
4 THE BALANCE SHEET THAT WAS DELIVERED AT CLOSING ASSUMED
5 NO PAYABLES AND ABOUT A MILLION ONE IN RECEIVABLES,
6 WHICH SHOULD HAVE BEEN COLLECTED IN THE FIRST SIX WEEKS.

Cinelli.ROUGH~1.TXT

7 SO THAT WAS ANOTHER MILLION TWO, MILLION ONE, MILLION
8 TWO OF CASH COMING IN TO THE BUSINESS WITHOUT
9 CORRESPONDING PAYABLES AT THE TIME.

10 Q. IN FACT, THAT WASN'T CORRECT?

11 A. THAT'S CORRECT. THERE WERE PAYABLES THAT
12 SHOWED UP WHICH ATE UP WHAT I BELIEVE A MILLION TWO
13 WOULD HAVE BEEN JUST FOR CASH.

14 Q. DID ANYBODY EVER VERIFY THAT THOSE PAYABLES
15 WERE ACTUAL DEBT THAT HAD BEEN INCURRED BY THE COMPANY?

16 A. THAT WAS WHAT AJ WAS WORKING ON. NOT UNTIL
17 PROBABLY OCTOBER, NOVEMBER WHEN HE GOT ON BOARD.

18 Q. SO NOBODY REALLY KNOWS WHETHER THEY WERE
19 ACTUALLY PROPER ACCOUNTS PAYABLE?

20 A. CORRECT. AND THAT'S -- AGAIN, THAT'S WHY
21 MCCORMICK DIDN'T DO ANY OF THAT. HE WAS SUPPOSED TO,
22 BUT HE DIDN'T. AND SO MCCORMICK NEVER PUT FINANCIAL
23 STATEMENTS TOGETHER. AND HE NEVER RECORDED CERTAIN
24 ASSET PURCHASES. HE WAS A DISASTER. AT LEAST THAT'S MY
25 OPINION. IT WASN'T UNTIL AJ CAME IN TO START CLOSING
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 141

1 THE BOOKS FOR THE VARIOUS MONTHS THAT WE REALLY STARTED
2 LOOKING AT, YOU KNOW, WHAT BALANCE SHEET WAS DELIVERED
3 AT THE TIME OF CLOSING.

4 Q. AND THE BANK HAD THEIR OWN LIKE KIND OF STAFF
5 THAT DID THEIR OWN DUE DILIGENCE ANALYSIS?

6 A. YES.

7 Q. DID THEY HAVE ANY AG PERSON GO OUT THERE AND
8 KIND OF TAKE A LOOK AT VALUATIONS OR ANYTHING?

9 A. I DON'T KNOW IF THEY HAD SOMEONE PHYSICALLY GO
10 OUT ON THE VALUATION SIDE. THEY WERE IN -- THE OFFICE
11 THAT HANDLED THIS WAS IN SAN FRANCISCO, THEY DIDN'T HAVE

Cinelli.ROUGH~1.TXT

12 REALLY ANY AG EXPERIENCE. I HAD A RELATIONSHIP WITH
13 THEM AND ONE OF THE INVESTORS HAD A LONGSTANDING
14 RELATIONSHIP WITH THEM. AND I KNOW THAT THEY CONVERSED
15 WITH A COUPLE OF THE PEOPLE WITHIN COMERICA THAT DID A
16 LOT OF AG LENDING AND STUFF IN THE PRODUCE BUSINESS.

17 Q. BUT THE PARTICULAR OFFICERS THAT WERE INVOLVED
18 WITH IT WEREN'T REALLY KNOWLEDGEABLE ABOUT AG?

19 A. YEAH, THEIR EXPERIENCE WAS LIMITED.

20 Q. AND WHERE THERE WERE THESE CASH FLOWS PROBLEMS
21 THAT STARTED COMING UP AFTER THE NEXT SEVERAL MONTHS,
22 DID YOU EVER GET A CALL FROM MIKE SILVA SAYING, HEY,
23 WHAT'S GOING ON OR WAS HE TALKING PRIMARILY WITH
24 WILLIAMS?

25 A. I HAD A COUPLE CALLS, MISAKO WAS REALLY THE
Rough Draft - 142 NONCERTIFIED ROUGH DRAFT

1 POINT PERSON FOR COMERICA AND SHE WAS TALKING TO BOTH
2 MCCORMICK AND WILLIAMS PRETTY REGULARLY.

3 Q. AND THEN SHE WOULD ALSO TALK TO YOU?

4 A. YEAH, I CALLED, I WOULD CALL IN TO HER JUST TO
5 SEE, YOU KNOW, HOW THINGS WERE GOING FROM THE BANK'S
6 STANDPOINT.

7 Q. AND THAT'S -- AND SHE TOLD YOU THAT SHE WAS
8 TALKING TO WILLIAMS AND MCCORMICK REGULARLY AND GETTING
9 UPDATES?

10 A. YEAH. AND THEN WILLIAMS AND MCCORMICK KEPT
11 COMING TO ME SAYING WE NEED MORE MONEY, WE NEED MORE
12 MONEY, WHICH CONFUSED ME, BECAUSE THE ASSUMPTION WAS WE
13 SHOULD HAVE HAD A LOT OF CASH COMING IN THE FIRST SIX
14 WEEKS.

15 Q. SO THEY WERE TELLING YOU YOU NEEDED MORE MONEY,
16 WERE THEY ALSO TELLING THE BANK THAT TOO?

17 A. THEY WERE TRYING TO GET MORE AVAILABILITY INTO
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18 THE LINE OF CREDIT.

19 Q. AND WAS MISAKO TALKING TO YOU ABOUT THAT TOO?

20 A. YEAH, WE WOULD KEEP IN TOUCH ABOUT WHAT WAS

21 TRANSPIRING. THE BANK REALLY GOT IRKED WHEN THEY NEVER

22 GOT FINANCIAL REPORTS. THEY NEVER GOT FINANCIAL

23 STATEMENTS. THE COMPANY WAS SUPPOSED TO PROVIDE

24 FINANCIAL STATEMENTS ON A MONTHLY BASIS, THE TRANSACTION

25 CLOSED IN LATE FEBRUARY, EARLY MARCH OR SO, AND SO, YOU
[Rough Draft - 143] NONCERTIFIED ROUGH DRAFT

1 KNOW, MARCH STATEMENTS NEVER CAME OUT, APRIL, MAY, JUNE,

2 JULY. THEY NEVER GOT ANY FINANCIAL STATEMENTS UNTIL AJ

3 CAME IN LATE IN THE YEAR. AND SO THE BANK WAS SORT OF

4 RUNNING BLIND. THE MANAGEMENT TEAM OBVIOUSLY WAS

5 RUNNING BLIND.

6 Q. WAS THE BANK BEHIND FIRING MCCORMICK?

7 A. THEY WERE CRITICAL OF MCCORMICK. BUT I THINK

8 WILLIAMS MADE THE CALL.

9 Q. BUT THEY WERE CRITICAL OF MCCORMICK TO WILLIAMS

10 AND THEN --

11 A. CORRECT.

12 Q. -- THEN WILLIAMS AFTER THEY WERE CRITIQUING HIM

13 DECIDED TO MAKE THE CALL?

14 A. WILLIAMS MADE THE CALL.

15 Q. BUT THE BANK WAS CRITIQUING MCCORMICK?

16 A. SURE.

17 Q. AND COMPLAINING THAT HE WASN'T DOING A GOOD

18 JOB?

19 A. I DON'T KNOW IF IT WAS DIRECTED SPECIFICALLY AT

20 MCCORMICK, BUT IT WAS CERTAINLY DIRECTED AT THE

21 MANAGEMENT TEAM FOR NOT PRODUCING FINANCIAL STATEMENTS.

22 Q. WELL, DID YOU EVER GET ANY COMPLAINTS FROM

Cinelli.ROUGH~1.TXT

23 MISAKO ABOUT MCCORMICK SPECIFICALLY OR JUST ABOUT THE
24 FINANCIAL SITUATION GENERALLY?

25 A. WELL, THEY EXHIBITED A HIGH LEVEL OF
[Rough Draft - 144] NONCERTIFIED ROUGH DRAFT

1 FRUSTRATION WITH MCCORMICK. AND SUGGESTED SOMETHING HAD
2 TO BE DONE UNTIL WILLIAMS SAYS SOMETHING GOT TO BE DONE
3 AND HE KEPT RUNNING WITH MCCORMICK UNTIL SUCH TIME AS
4 IT'S THE END OF FALL AND THEN MCCORMICK LEFT. YOU KNOW,
5 IT'S -- WHETHER OR NOT WILLIAMS ACTUALLY FIRED HIM OR
6 MCCORMICK JUST SAID ENOUGH'S ENOUGH, IT'S SPECULATION,
7 BUT THE FIRM THAT MCCORMICK IS NOW WORKING FOR SOMEONE
8 SUGGESTED HE WAS ON THE PAYROLL OF BOTH COMPANIES FOR A
9 PERIOD OF TIME.

10 Q. SO WHAT YOU ARE SAYING IS THAT HE MAY HAVE SEEN
11 THE HANDWRITING ON THE WALL AND HAD BEEN WORKING TWO
12 JOBS?

13 A. POSSIBLY.

14 Q. SO YOU ARE NOT CERTAIN WHETHER HE WAS FIRED OR
15 HE QUIT OR WHAT HAPPENED?

16 A. WILLIAMS WAS THE ONE THAT COULD ANSWER THAT.

17 Q. SO THERE WAS NO DECISION OF THE BOARD OF
18 DIRECTORS THAT SAID WE ARE GOING TO TERMINATE MCCORMICK?

19 A. NO.

20 Q. AND THEN YOU SAID THAT CHANDRA PERSON WAS
21 BROUGHT IN, THAT WAS AS A RESULT OF A RECOMMENDATION BY
22 BURBANK?

23 A. AT THE RECOMMENDATION OF I THINK THE BANK AND
24 BURBANK AND JUST THE COMPANY IN GENERAL THAT WE NEEDED
25 SOMEONE TO PUT BOOKS AND RECORDS TOGETHER. BECAUSE FROM
[Rough Draft - 145] NONCERTIFIED ROUGH DRAFT

1 INCEPTION IN FEBRUARY, MARCH, NO FINANCIAL STATEMENTS
2 WERE PRODUCED.

Cinelli.ROUGH~1.TXT

3 Q. WHAT WAS THE ROLE OF SANTOS MARTINEZ WHILE
4 FRESH 'N HEALTHY WAS OPERATING? YOU SAID HE WAS A
5 CONSULTANT. WHAT WAS HE, CONSULTING ON?

6 A. AS FAR AS I KNOW, WILLIAMS WAS THE ONE THAT
7 INTERFACED WITH HIM ON A DAILY BASIS, PLANT OPERATIONS,
8 THE FARMING OPERATION. WILLIAMS WAS SORT OF BEING
9 TUTORED IN MY OPINION THROUGH THE FIRST NUMBER OF
10 MONTHS. AND THEN I THINK THERE WAS -- I HAD A COUPLE OF
11 CONVERSATIONS WITH SANTOS INDEPENDENTLY BECAUSE IT
12 APPEARED WILLIAMS WASN'T GETTING THE JOB DONE AND
13 CERTAINLY FINANCIAL STATEMENTS WEREN'T COMING OUT AND
14 SANTOS WAS AT THE TIME CRITICAL OF HOW MARK WAS RUNNING
15 THE BUSINESS.

16 Q. SO SANTOS EXPRESSED CRITICISMS TO YOU ABOUT
17 WILLIAMS?

18 A. YES, IT'S GOING DOWN THE WRONG PATH.

19 Q. AND WHAT WAS HIS OPINION AS TO THE BASIS FOR
20 THAT?

21 A. I CAN'T RECALL SPECIFICALLY. IT WAS LIKE SORT
22 OF THE BASIC OPERATIONS, HE WAS LOOKING AT THE FARMING
23 OPERATION, YOU KNOW, HE WAS A BIG BELIEVER THAT YOU HAD
24 TO BE IN THE FARMING BUSINESS TO MAKE MONEY. AND WHEN
25 WILLIAMS DECIDED TO GET OUT OF FARMING, SANTOS BELIEVED
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 146

1 THAT WAS THE WRONG THING. BUT WILLIAMS LOST A WHOLE
2 BUNCH OF MONEY ON THE FARMING SIDE. HOW MUCH WAS
3 ATTRIBUTED TO WHAT SANTOS LEFT ON THE TABLE, THAT IS
4 SUBJECT TO SPECULATION.

5 Q. WAS SANTOS INTERFACING AT ALL WITH THE BANK?

6 A. I DON'T BELIEVE SO. NOT UNTIL LATE IN THE GAME
7 WHERE THE BANK WANTED TO SHUT THE THING DOWN. I KNOW

Cinelli.ROUGH~1.TXT

8 THAT THERE WERE SOME CONVERSATIONS DIRECTLY BETWEEN
9 SANTOS AND THE BANK, UNBEKNOWNST TO THE COMPANY. AND I
10 DON'T KNOW WHAT THE NATURE OF THOSE CONVERSATIONS WERE.

11 Q. AND SO THAT WAS PRIOR TO THE SHUTDOWN THEY
12 STARTED HAVING CONVERSATIONS?

13 A. CORRECT.

14 Q. AND THEN YOU SAID THAT WHEN SANTOS CAME IN AND
15 KIND OF STARTED TAKING STUFF FROM THE EL CENTRO
16 FACILITY, YOU SAID THAT BURBANK RECOMMENDED THAT YOU NOT
17 DO ANYTHING TO STOP THEM?

18 A. YEAH, HE RECOMMENDED IT, AND THE BANK'S COUNSEL
19 LOOKED AT THE AGREEMENT AND AS MENTIONED, THERE WAS A
20 PROVISION THAT IF CERTAIN LEASES WEREN'T TRANSFERRED
21 TITLE DIDN'T TRANSFER. WHICH IS IN CONTRAVENTION OF
22 WHAT SOME OF THE FOLKS AT BAKER SAID. AND THE BANK
23 SAID, YES, SANTOS HAS A RIGHT TO TAKE THAT EQUIPMENT.

24 Q. AND DID THEY GIVE HIM CONSENT OR THEY --

25 A. ALLOWED IT TO HAPPEN.
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 147

1 Q. -- JUST ALLOWED IT TO HAPPEN?

2 A. UH-HUH. THEY VIEWED THAT THAT EQUIPMENT WAS
3 NOT UNDER THEIR UCC FILING.

4 Q. AND DID THEY ALSO ALLOW KIND OF LIKE A
5 SELF-HELP VENDORS THING TO HAPPEN AS WELL?

6 A. THEY ALLOWED IT TO HAPPEN. THEY DIDN'T TAKE
7 ANY ACTION, ANY CRIMINAL ACTION AGAINST THOSE PEOPLE.

8 Q. AND I GUESS MR. BURBANK HAD -- I THINK HE HAD
9 INDICATED IN SOME OF THESE COURT FILINGS THAT THERE WERE
10 PEOPLE THAT WERE TAKING EQUIPMENT OR BEING, YOU KNOW,
11 THAT THE EQUIPMENT WAS BEING KIND OF, YOU KNOW, IT
12 WAS -- LET ME SEE. WELL, I DON'T WANT TO PUT WORDS IN
13 HIS MOUTH. I DON'T KNOW WHERE IT IS IN THE COURT

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14 PAPERS, SO LET'S JUST STRIKE ALL THAT.

15 LET'S JUST GO BACK TO, WERE THERE OPPORTUNITIES
16 FOR FRESH 'N HEALTHY TO PREVENT PEOPLE FROM TAKING
17 EQUIPMENT THAT YOU THINK MR. BURBANK DIDN'T, YOU KNOW,
18 HE COULD HAVE PERHAPS PREVENTED BY TAKING -- FILING
19 ACTIONS WITH AUTHORITIES OR PURSUING PEOPLE.

20 A. I INQUIRED MANY TIMES AS TO THE BANK AND
21 BURBANK WERE ORCHESTRATING THIS PROCESS, WHY AREN'T
22 THERE SECURITY GUARDS, WHY AREN'T THINGS LOCKED UP. AND
23 THEY JUST DIDN'T TAKE ANY ACTION. WHETHER OR NOT THAT
24 WAS BECAUSE THEY DIDN'T WANT TO PAY FOR IT, THEY DIDN'T
25 WANT TO DEAL WITH IT, THEY JUST DIDN'T TAKE ANY ACTION.
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 148

1 Q. AND THERE WERE NO -- AS FAR AS YOU KNEW, THERE
2 WEREN'T ANY REPORTS MADE LIKE TO THE SHERIFF, HEY, WE
3 JUST LOST --

4 A. NOT THAT I KNOW OF.

5 Q. OKAY. I THINK IT'S -- I WANT YOU TO GET TO
6 YOUR MEETING.

7 A. WE CAN GO FOR ANOTHER TEN MINUTES, 15 MINUTES.

8 MS. ANASTASSIOU: ALL RIGHT.

9 THIS WILL BE NO. 12.

10 (EXHIBIT SC-12 MARKED.)

11 MS. ANASTASSIOU: I HAVE JUST HANDED THE
12 WITNESS A DOCUMENT WE HAVE MARKED AS IS SC NO. 12 AND
13 IT'S INFORMATION TAKEN FROM THE WEB AND IT'S MARKED SNO
14 57 AND 58 REGARDING THE PACA LICENSE FOR FRESH 'N
15 HEALTHY AND FRESH 'N HEALTHY BEING LISTED WITH THE
16 DEPARTMENT OF FOOD AND AG AS A LICENSEE. WERE YOU
17 INVOLVED IN GETTING THE LICENSES THAT FRESH 'N HEALTHY
18 GOT UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT?

19 A. Cinelli.ROUGH~1.TXT
NO.

20 Q. NO. DID YOU EVER SIGN ANY OF THOSE LICENSE --

21 A. NO.

22 Q. -- AGREEMENTS?

23 A. UH-UH.

24 Q. DID ANYBODY EVER GET INFORMATION FROM YOU?

25 A. NO.

□ Rough Draft - 149

NONCERTIFIED ROUGH DRAFT

1 Q. SO DO YOU KNOW WHY YOU WERE LISTED AS A
2 PRINCIPAL ON THE PACA LICENSE?

3 A. THE ONLY THING I CAN THINK OF IS I WAS A
4 SHAREHOLDER OR A DIRECTOR.

5 Q. OKAY. SO YOU NEVER, YOU NEVER SAW THE ACTUAL
6 LICENSE?

7 A. (WITNESS SHAKES HEAD.)

8 Q. AND NOBODY EVER CONSULTED WITH YOU ABOUT IT?

9 A. NO.

10 Q. WHAT I'M QUESTIONING IS, I'M LOOKING AT THE
11 PACA LICENSES, THERE'S FIVE PEOPLE LISTED AS PRINCIPALS,
12 MR. WILLIAMS, MR. PARSON, PRESTWICK PARTNERS, YOURSELF
13 AND MARK MCCORMICK. DO YOU KNOW WHY THOSE PARTICULAR
14 PERSONS WERE SELECTED AS THE PRINCIPALS AS OPPOSED TO
15 OTHER PEOPLE THAT WERE ALSO INVOLVED?

16 A. I HAVE NO IDEA. MARK WAS THE CEO, PARSON I
17 KNOW WAS VERY INSTRUMENTAL IN THE VENDOR RELATIONSHIPS.
18 PRESTWICK IS ME AND THEN MYSELF AND MCCORMICK WAS CFO.
19 SO ALL THE TRADE RELATIONSHIPS WERE REALLY WILLIAMS,
20 PARSON AND MCCORMICK. AND I WOULD IMAGINE JUST AS A
21 SHAREHOLDER I WAS INCLUDED.

22 Q. OKAY.

23 A. AND I THINK -- THE OTHER THING I COULD THINK OF
24 IS WHEN BAKER INCORPORATED THE BUSINESS, MY NAME MIGHT

Cinelli.ROUGH~1.TXT

25 HAVE BEEN ON THE ORIGINAL INCORPORATION PAPERS. THAT'S
Rough Draft - 150 NONCERTIFIED ROUGH DRAFT

1 THE ONLY THING I CAN THINK OF.

2 Q. AS TO WHY YOU WERE SELECTED AS THE PRIMARY
3 PRINCIPAL?

4 A. YEAH.

5 Q. AND WHAT ABOUT STEVE -- IS IT STEVE PAVICH?

6 A. TOM PAVICH.

7 Q. TOM PAVICH, WHY WASN'T HE ON THE PACA LICENSE
8 IF HE WAS THE PERSON THAT WAS MARKETING AND SELLING THE
9 PRODUCE?

10 A. I HAVE NO IDEA.

11 Q. WHEN DID TOM PAVICH CEASE HIS INVOLVEMENT WITH
12 FRESH 'N HEALTHY.

13 A. HE WAS STILL INVOLVED AFTER, EVEN AFTER
14 DECEMBER BY SELLING SOME OF THE EXCESS INVENTORY ON
15 BEHALF, YOU KNOW, AT THE DIRECTION OF THE BANK AND
16 BURBANK TO TRY TO GET AS MUCH MONEY AS HE COULD.

17 Q. EXCESS INVENTORY OF PRODUCE?

18 A. YES.

19 Q. AND SO HE WAS WORKING WITH BURBANK AND THE BANK
20 TO SELL PRODUCE?

21 A. WHATEVER WAS LEFT, YEAH. FINISHED GOODS AND
22 STUFF THAT WAS IN THE GROUND.

23 Q. AND CROPS IN GROUND THAT WERE SUBJECT TO
24 AGREEMENT?

25 A. I DON'T KNOW IF THEY ARE SUBJECT TO AGREEMENT,
Rough Draft - 151 NONCERTIFIED ROUGH DRAFT

1 BUT THERE WAS, FROM WHAT I UNDERSTAND, THERE WERE CROPS
2 IN THE GROUND HE SOLD.

3 Q. THAT HE WAS INVOLVED IN SELLING?

4 Cinelli.ROUGH~1.TXT
A. UH-HUH.

5 Q. WAS HE BEING PAID SOME KIND OF A COMMISSION TO
6 DO THAT?

7 A. AS FAR AS I KNOW IT WAS COMMISSION BASED.

8 Q. AND TOM PAVICH WAS THE ONE THAT WAS SELLING
9 PRODUCE FOR FRESH 'N HEALTHY?

10 A. HE RAN SALES, YES.

11 Q. FROM ITS INCEPTION --

12 A. CORRECT.

13 Q. -- UNTIL THE END?

14 A. UH-HUH.

15 Q. BUT YET HE WASN'T LISTED ON THE PACA LICENSE?

16 A. IF THIS IS --

17 Q. ACCORDING TO THE INTERNET PRINTOUT.

18 A. HE'S NOT REPORTED THERE, SO.

19 Q. OKAY.

20 MS. ANASTASSIOU: LET'S MARK THIS AS SC-13.

21 (EXHIBIT SC-13 MARKED.)

22 BY MS. ANASTASSIOU:

23 Q. OKAY. I HAVE MARKED AS SC NO. 13 SOME

24 DOCUMENTS REGARDING FRESH 'N HEALTHY, INC., THAT HAVE

25 BEEN PRINTED FROM INTERNET RECORDS, THEY ARE MARKED SNO
Rough Draft - 152 NONCERTIFIED ROUGH DRAFT

1 80, 81, 82 AND 83. STARTING WITH THE FIRST PAGE, FRESH
2 'N HEALTHY, INC., THAT WAS -- IT APPEARS THAT ACCORDING
3 TO THIS RECORD IT WAS FILED ON OCTOBER 10 OF '06. IS
4 THAT YOUR UNDERSTANDING OF WHEN THE COMPANY WAS FORMED?

5 A. PROBABLY.

6 Q. OKAY. AND THAT -- BUT THAT ESSENTIALLY IT
7 DIDN'T BECOME ACTIVE UNTIL AFTER THE GOURMET VEG-PAQ
8 ACQUISITION?

9 A. UH-HUH.

Cinelli.ROUGH~1.TXT

10 Q. AND THAT WAS ESSENTIALLY A DORMANT TPHAPBT
11 COMPANY UNTIL THEN?

12 A. THAT'S CORRECT.

13 Q. AND THEN YOU WERE LISTED AS THE AGENT FOR
14 SERVICE OF PROCESS HERE?

15 A. I GUESS I WAS.

16 Q. OKAY.

17 A. AND THIS WAS -- I HAD BAKER & MCKENZIE ORGANIZE
18 THE COMPANY. AND SO I GUESS THEY PUT ME AS THE AGENT.

19 Q. AND THEN GOING DOWN TO THE NEXT PAGE, IF YOU
20 LOOK FOR CORPORATION ADDRESSES, UNDER SNO 81, IT HAS TWO
21 ADDRESSES, AN ADDRESS IN SAN DIEGO AND AND ADDRESS IN
22 HOLLISTER. DO YOU SEE THAT?

23 A. UH-HUH. THAT IS ACTUALLY MARIAS ADDRESS THAT'S
24 A BAKER & MCKENZIE ADDRESS.

25 Q. THAT'S A BAKER & MCKENZIE ADDRESS?
NONCERTIFIED ROUGH DRAFT

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1 A. UH-HUH.

2 Q. SO THEY INITIALLY INDICATED THEIR OWN ADDRESS
3 AS A CORPORATE MAJOR ADDRESS, IS THAT IT?

4 A. I GUESS SO.

5 Q. BECAUSE FRESH 'N HEALTHY NEVER HAD ANY
6 OPERATIONS IN SAN DIEGO, DID THEY?

7 A. NO, NO.

8 Q. AND THEN IT HAS YOU LISTED -- ON THIS NEXT
9 RECORD THAT WE ARE LOOKING AT HAS ON SPENCE ROAD IN
10 SALINAS.

11 A. THAT'S THE ADDRESS OF PREMIUM FRESH FARMS.

12 Q. DO YOU KNOW WHY THAT ADDRESS IS LISTED THERE?

13 A. THE ONLY THING THAT I CAN THINK OF IS IN THE
14 EARLY STAGES OF FRESH 'N HEALTHY WHEN WE SET THE THING

Cinelli.ROUGH~1.TXT

15 UP, MARK WAS RUNNING THE DAY-TO-DAY OPERATION OVER AT
16 PREMIUM AND IT WAS THE ONLY OFFICE THAT WE THOUGHT THAT
17 WE COULD SEND, THIS WAS IN ANTICIPATION OF POSSIBLY
18 DOING SOMETHING COLLABORATIVELY WITH PREMIUM AND GOURMET
19 VEG-PAQ AS WE TALKED ABOUT BEFORE AND I ONLY ASSUME THAT
20 THAT WAS THE ONLY CORPORATE ADDRESS THAT WAS AVAILABLE
21 AT THE TIME. WE DIDN'T HAVE SEPARATE OFFICES OF FRESH
22 'N HEALTHY.

23 Q. AND THE 1851 AIRWAY DRIVE, HOLLISTER, THAT
24 SUBSEQUENTLY BECAME THE ADDRESS OF FRESH 'N HEALTHY?

25 A. THAT BECAME MARK WILLIAMS, MARK MCCORMICK AND
Rough Draft - 154 NONCERTIFIED ROUGH DRAFT

1 TOM PAVICH, THAT CAME THEIR OFFICE.

2 Q. OKAY. AND THEN ON THIS, THE NEXT COUPLE OF
3 PAGES I GUESS THE CORPORATE PRINTOUT HAD FOR MARK
4 WILLIAMS SOME SUBSEQUENT ENTERPRISES HERE THAT THEY
5 LISTED. ARE YOU FAMILIAR WITH MARK WILLIAMS BEING
6 INVOLVED IN ANY OF THESE ENTITIES LISTED? OF COURSE,
7 THAT IS QUITE A COMMON NAME.

8 A. I THINK THE MARK WILLIAMS LIMITED LIABILITY
9 COMPANY IS THE THING THAT MARK SET UP AS HIS ADVISORY
10 COMPANY. BUT I KNOW THAT HE'S GOT A CORPORATION OR AN
11 LLC THAT HE RUNS HIS ACTIVITIES THROUGH. I DON'T
12 RECOGNIZE ANY OF THE OTHER ONES.

13 Q. SO YOU'RE NOT SURE IF THAT IS THE ONE THAT HE
14 DID BUT HE DID HAVE SOME KIND OF AN LLC THAT HE SET
15 UP --

16 A. THAT'S CORRECT.

17 Q. -- TO --

18 DO YOU KNOW WHAT OTHER BUSINESS OPERATIONS HE'S
19 BEEN INVOLVED WITH OTHER THAN IN RECENT, IN THE PAST TWO
20 YEARS OTHER THAN FRESH 'N HEALTHY AND PREMIUM FRESH?

Cinelli.ROUGH~1.TXT

□ Rough Draft - 155

21 A. PROBABLY ABOUT THE LAST TWO YEARS. I WAS
22 WITH -- WHEN I WAS WITH OFFROAD CAPITAL, WE HAD MADE AN
23 INVESTMENT IN A SOFTWARE COMPANY DOWN IN ARIZONA, I
24 ASKED MARK AT THE TIME TO SIT ON THE BOARD. IT WAS
25 AGAIN AN ENTERPRISE SOFTWARE BY THE NAME OF PATCHLINK.
NONCERTIFIED ROUGH DRAFT

1 THIS PROBABLY DATES TO THE EARLY 2000S. I THINK HE
2 SEVERED HIS RELATIONSHIP WITH THEM PROBABLY THREE YEARS
3 AGO. THREE, FOUR YEARS AGO.

4 Q. I BELIEVE THAT THAT -- IF WE CAN TURN BACK TO
5 SC NO. 3 REALLY QUICK. I THINK THERE IS A REFERENCE, IF
6 YOU LOOK AT SNO 74 --

7 A. UH-HUH. --

8 Q. -- THERE IS THE LITTLE BIOS OF THE PERSONS
9 INVOLVED WITH FRESH 'N HEALTHY. AND IT INDICATES HERE
10 THAT MARK WILLIAMS WAS PRESIDENT OF THE PATCHLINK
11 CORPORATION.

12 A. HE STARTED AS DIRECTOR AND THEN BECAME
13 PRESIDENT.

14 Q. BUT YOUR UNDERSTANDING HE IS NO LONGER INVOLVED
15 IN THAT COMPANY?

16 A. THAT'S CORRECT.

17 Q. WHAT ABOUT WESTERN GROWERS ASSOCIATION, WHAT'S
18 THAT ORGANIZATION?

19 A. WESTERN GROWERS, AS I SAID, IS THE LARGEST
20 SUPERMARKET TRADE ASSOCIATION WEST OF THE ROCKIES DIS.
21 AND SO BASICALLY COMPROMISES ALL THE CEOS OF ALL THE
22 SUPERMARKET CHAINS WEST OF THE ROCKIES, BUT IT'S A TRADE
23 ASSOCIATION.

24 Q. WITH THE CEOS OF THE --

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25 A. HE WAS EITHER THE PRESIDENT OR -- I KNOW HE WAS
NONCERTIFIED ROUGH DRAFT

Cinelli.ROUGH~1.TXT

1 ON THE BOARD.

2 Q. WHERE ARE THEY HEADQUARTERED?

3 A. I DON'T KNOW.

4 Q. AND SO THAT WAS JUST INFORMATION THAT HE GAVE
5 YOU?

6 A. YES.

7 Q. AND DO YOU KNOW WHETHER WILLIAMS MAINTAINS HIS
8 AFFILIATIONS WITH --

9 A. I DON'T KNOW.

10 Q. -- WESTERN GROWERS ASSOCIATION?

11 DO YOU KNOW WHETHER HE MAINTAINS HIS
12 AFFILIATION WITH CARR GOTTSTEIN FOODS?

13 A. NO, HE DOESN'T. THAT IS PART OF SAFEWAY NOW.

14 Q. AND YOU SAID PREVIOUSLY THAT YOU DID NOT KNOW
15 WHAT MARK WILLIAMS' BUSINESS WAS IN COSTA RICA?

16 A. I HAVE NO IDEA.

17 Q. OKAY. IT'S TWO NOW, SO --

18 A. WE HAVE 15 MINUTES. I SAID 2:15. I SHOULD
19 HAVE SUFFICIENT TIME TO GET UP TO THE CITY.

20 (OFF THE RECORD.)

21 MS. ANASTASSIOU: LET'S GO THROUGH THIS NEXT
22 REPORT THEN. LET'S MARK THAT SC NO. 14.

23 (EXHIBIT SC-14 MARKED.)

24 BY MS. ANASTASSIOU:

25 Q. SC-14 IS LABELED SNO 139 THROUGH 144. AND
Rough Draft - 157 NONCERTIFIED ROUGH DRAFT

1 AGAIN IT'S A CORPORATE PRINTOUT WITH INFORMATION ABOUT
2 FRESH 'N HEALTHY, WHICH I'D JUST LIKE TO GO OVER WITH
3 YOU.

4 SO AGAIN THERE IS THIS SAN DIEGO ADDRESS LISTED
5 AND THAT SAN DIEGO ADDRESS YOU TESTIFIED THAT WAS YOUR
Page 129

Cinelli.ROUGH~1.TXT

6 ATTORNEY, CORRECT?

7 A. CORRECT.

8 Q. OKAY. AND THEN ON PAGE 2, OH, PHONE NUMBERS

9 FOR BUSINESS ADDRESSES I SEE. SO THEY ARE LISTING I

10 GUESS PHONE NUMBERS THAT ARE EAR BAKER & MCKENZIE. SO

11 THAT'S WHAT THAT'S ALL ABOUT. THEY ARE LISTING I GUESS

12 IN THE NEXT PAGES ALL THESE BUSINESSES THAT ARE MAYBE IN

13 THE SAME OFFICE AS BAKER & MCKENZIE?

14 A. OH, CARNOUSTIE WAS THE ENTITY USED TO ACQUIRE

15 THE PROPERTY THAT IS BAKER'S OFFICE.

16 Q. THAT IS WHY IT LISTED AT HIGH BLUFF?

17 A. YES. NONE OF THE OTHER COMPANIES REFERENCED

18 HAS ANYTHING TO DO WITH FRESH 'N HEALTHY.

19 Q. AND YOU INDICATED CARNOUSTIE IS IN NEGOTIATIONS

20 WITH SANTOS TO SELL HIM BACK THE EL CENTRO PLANT?

21 A. PRELIMINARY. HE'S OFFERED TO BUY IT ON THE

22 CHEAP. AND SO I'M WORKING WITH BOTH THE LENDER AND

23 EARLY STAGES OF SANTOS TO TRY TO MAKE SOMETHING HAPPEN

24 OR TRY TO SELL THAT THING.

25 Q. AND IS COMERICA INVOLVED IN THAT TRANSACTION?
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 158

1 A. NOT AT ALL.

2 Q. SO THAT'S JUST YOU PERSONALLY WITH SANTOS?

3 A. THE TRANSACTION ORIGINALLY WAS -- THE

4 \$3 MILLION LOAN CAME INTO FRESH 'N HEALTHY TO BEGIN WITH

5 TO ACQUIRE THE PROPERTY. SUBSEQUENT TO THAT, IT WAS

6 ASSUMED IN ITS ENTIRETY BY CARNOUSTIE AS WELL AS THE

7 PROPERTY. SO IT'S A PURE REAL ESTATE LOAN. IT'S OFF

8 THE BALANCE SHEET OF FRESH 'N HEALTHY.

9 Q. SO COMERICA BANK HASN'T BEEN LOOKING TO THAT

10 FACILITY AT ALL?

Cinelli.ROUGH~1.TXT

11 A. NO.

12 Q. AND THEN THE EQUIPMENT THAT WAS AT THAT

13 FACILITY, WAS THAT OWNED BY FRESH 'N HEALTHY?

14 A. YES.

15 Q. AND THAT EQUIPMENT IS ALL GONE?

16 A. SOME OF THE EQUIPMENT IS GONE. THE STUFF

17 THAT'S GONE IS THE STUFF THAT WAS TAKEN BY SANTOS AND

18 THE REST OF IT I BELIEVE IS PART OF THIS AUCTION.

19 Q. SO SANTOS TOOK PART OF IT AND THEN PART OF IS

20 PART OF THIS AUCTION AND THEN SANTOS IS LOOKING TO BUY

21 BACK THE FACILITY WHERE ALL THE EQUIPMENT WILL GO AT

22 HALF THE PRICE?

23 A. MUCH LESS.

24 MS. ANASTASSIOU: LET'S MARK THIS SC NO. 15.

25 (EXHIBIT SC-15 MARKED.)

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1 MS. ANASTASSIOU: I HAVE HANDED YOU A DOCUMENT

2 THAT WE HAVE MARKED AS SC-15 IT'S RECORDS FROM THE

3 CALIFORNIA SECRETARY OF STATE REGARDING PRESTWICK

4 PARTNERS LLC. AND IF YOU COULD TAKE -- IT'S BATES SNO

5 161. IF YOU WOULD TAKE AN OPPORTUNITY TO LOOK AT THAT

6 DOCUMENT AND LET ME KNOW WHEN YOU ARE READY FOR

7 QUESTIONING.

8 A. SURE.

9 Q. SO PRESTWICK PARTNERS LLC YOU STATED IS NOT AN

10 OPERATING ENTITY?

11 A. NO, THAT WAS SET UP AS AN INVESTMENT ENTITY TO

12 HOLD PRIVATE SECURITIES BUT WE NEVER -- WE SET UP THE

13 CORPORATION, THAT'S IT. IT'S NEVER BEEN IN BUSINESS.

14 AND 188 EMBARCADERO IS AN OLD OFFICE ADDRESS OF MINE.

15 Q. THAT WAS AN OLD OFFICE. AND WHAT BUSINESS DID

16 YOU OPERATE THERE?

Cinelli.ROUGH~1.TXT

17 A. JUST MY ADVISORY BUSINESS.

18 Q. AND THAT WAS UNDER PRESTWICK PARTNERS INC.?

19 A. YES.

20 Q. BUT YOU HAVE KEPT THIS LLC ACTIVE?

21 A. I DIDN'T KNOW IT WAS ACTIVE UNTIL YOU BROUGHT
22 IT UP.

23 Q. IT SAYS THAT IT'S ACTIVE RIGHT THERE SO THAT
24 MEANS THAT YOU NEED TO BE PAYING CORPORATION -- I MEAN
25 OR LLC TAXES?

□ Rough Draft - 160

NONCERTIFIED ROUGH DRAFT

1 A. I HAVEN'T BEEN NOTIFIED AT ALL. I THOUGHT IT
2 WAS TERMINATED, SO SOMETHING I HAVE GOT TO FOLLOW UP ON.

3 Q. SO TO YOUR KNOWLEDGE, YOU HAVEN'T BEEN FILING A
4 YEARLY --

5 A. NO.

6 Q. SO WHO WOULD BE DOING THAT, THEN? YOUR
7 ACCOUNTANT?

8 A. I THINK EVERYBODY IS UNAWARE OF IT. I WOULD
9 ASSUME THAT -- I HAVEN'T BEEN IN THAT OFFICE FOR FIVE
10 YEARS.

11 Q. WAS THAT AN OFFICE THAT YOU SHARED?

12 A. YEAH. IT WAS LEASED TO PRESTWICK AND I HAD A
13 HANDFUL OF OTHER PEOPLE PARTICIPATE IN THE OFFICE, A
14 TECHNOLOGIST, OTHER BANKERS.

15 MS. ANASTASSIOU: LET'S MARK THIS AS NO. 16.

16 (EXHIBIT SC-16 MARKED.)

17 MS. ANASTASSIOU: I HAVE HANDED THE WITNESS A
18 DOCUMENT THAT IS MARKED SC NO. 16, IT'S BATES-STAMPED
19 SNO 162, 163. IT CONSISTS OF SOME INFORMATION ABOUT
20 STEVE CINELLI AND PRESTWICK PARTNERS FROM THE INTERNET.
21 IF YOU COULD TAKE A LOOK AT THAT AND LET ME KNOW WHEN

Cinelli.ROUGH~1.TXT
22 YOU ARE READY FOR QUESTIONS.

23 A. SURE.

24 Q. DID YOU PREPARE THIS DOCUMENT THAT'S ON THE
25 INTERNET?

□ Rough Draft - 161

NONCERTIFIED ROUGH DRAFT

1 A. I BELIEVE I DID, YES.

2 Q. AND IS THAT -- WHAT IS THIS, IS THIS KIND OF
3 A AFTER MARKETING DOCUMENT OR WHAT'S --

4 A. "LINKED IN" IS A SOCIAL NETWORK THAT IS REALLY
5 FOR BUSINESS CONNECTIONS AND STUFF LIKE THIS. SO AS
6 PART OF IT, YOU PROVIDE A LITTLE BACKGROUND ON YOUR
7 BUSINESS ACTIVITIES AND EXPERTISE. AND, AGAIN, IT'S A
8 NETWORK OF LARGELY BUSINESS CONNECTIONS.

9 Q. THERE IS A PRESTWICK PARTNERS THAT IS IN THE
10 MIDWEST?

11 A. MINNESOTA.

12 Q. HAVE YOU EVER BEEN LINKED WITH THEM?

13 A. NO. IN FACT, THE ONLY CONVERSATION I HAD IS
14 THAT SOMEONE CONTACTED ME BECAUSE THEY PULLED UP I THINK
15 IT WAS PRESTWICK PARTNERS DOT-NET, MY DOMAIN THAT I
16 DON'T HAVE A WEBSITE FOR, BUT I OWN IS PRESTWICK
17 PARTNERS DOT-COM. AND THE PRESTWICK PARTNERS DOT-NET IS
18 THIS MINNESOTA INVESTMENT BANKING FIRM. BUT THERE IS NO
19 RELATIONSHIP. I CHATTED DIRECTLY WITH THEM SAYING WHAT
20 THE HECK ARE YOU USING MY NAME FOR, THEY SAID THE SAME
21 THING. BUT WE AGREED JUST MOST OF MY ACTIVITIES ARE OUT
22 HERE ON THE WEST COAST, THEY DO STUFF IN THE MID WEST.

23 Q. WHERE IS PRESTWICK PARTNERS, INC., FORMED?

24 A. WHERE? IT'S A DELAWARE CORPORATION.

25 Q. NOW, ARE YOU REGISTERED TO DO BUSINESS IN
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 162

1 CALIFORNIA, DO YOU KNOW?
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2 A. YES, YES.

3 Q. SO THAT IS AN ENTITY THAT HAS THE INVOLVEMENT
4 WITH FRESH 'N HEALTHY AND NOT PRESTWICK PARTNER LLC; IS
5 THAT CORRECT?

6 A. THAT'S CORRECT.

7 Q. OKAY.

8 MS. ANASTASSIOU: I MIGHT AS WELL JUST GO
9 THROUGH THIS. THIS IS ANOTHER DOCUMENT ABOUT FINANCES.
10 LET'S MARK THIS NO. 17.

11 (EXHIBIT SC-17 MARKED.)

12 BY MS. ANASTASSIOU:

13 Q. SO THIS IS VFINANCE INVESTMENTS INC, WHICH YOU
14 SAID THAT YOU HAD TERMINATED YOUR RELATIONSHIP WITH,
15 RIGHT?

16 A. YES.

17 Q. AND YOU SAID THAT YOU JUST HAD A RELATIONSHIP
18 WITH THEM AS, WHAT WAS IT, CONSULTANT?

19 A. INDEPENDENT CONTRACTOR WHEREBY THEY WOULD HOLD
20 IN THEIR BROKER DEALER MY SECURITIES LICENSES. AND WE
21 WERE TO COLLABORATE ON VARIOUS INVESTMENT BANK
22 OPPORTUNITIES AND SHARE FEES AND WHATNOT.

23 Q. AND THEN YOU SAID THAT THAT AD THAT THEY RAN
24 FOR THE FRESH 'N HEALTHY DEAL, THE TOMBSTONE, THAT WAS
25 KIND OF THEIR DEAL RATHER THAN YOURS, YOU WERE UNAWARE
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 163

1 THAT THEY EVEN PRINTED THAT?

2 A. THEY WERE AWARE OF THE TRANSACTION BECAUSE THEY
3 GOT PARTIALLY COMPENSATED THROUGH ME ON THAT, BUT THE
4 DESCRIPTION OF THE TRANSACTION WITHIN THE TOMBSTONE WAS
5 INCORRECT.

6 Q. RIGHT. AND THEY DIDN'T RUN THAT BY YOU, THEY

Cinelli.ROUGH~1.TXT
7 JUST PRINTED THE TOMBSTONE?

8 A. CORRECT. AND I HAVE NO IDEA WHERE THEY PRINTED
9 IT. I THINK THE ONLY PLACE THEY DID WAS ON THEIR
10 WEBSITE.

11 Q. AND WHO WOULD HAVE BEEN THE PERSON RESPONSIBLE
12 FOR DOING THAT?

13 A. I DON'T KNOW. PROBABLY MARKETING DEPARTMENT
14 WHOEVER THAT IS.

15 Q. I THINK -- LET'S GO THROUGH ONE LAST REPORT AND
16 THEN WE WILL CALL IT A DAY. LET'S MARK THIS NO. 18.

17 (EXHIBIT SC-18 MARKED.)

18 BY MS. ANASTASSIOU:

19 Q. I HAVE PRINTED OUT AN INTERNET REPORT ABOUT YOU
20 PERSONALLY AND I JUST WANTED TO GO OVER THIS WITH YOU.
21 IT'S MARKED SNO 461 THROUGH 471. AND THERE IS AN
22 ADDRESS ON THE FRONT THAT'S LISTED FOR YOU IN SARATOGA
23 AND THEN THERE IS ALSO AN ADDRESS IN SAN MATEO. DO YOU
24 SEE THAT? IS THAT WHERE YOU USED TO HAVE A BUSINESS
25 OFFICE?

□ Rough Draft - 164

NONCERTIFIED ROUGH DRAFT

1 A. NO, THAT USED TO BE MY HOME WHEN I WAS MARRIED.

2 Q. SO THAT'S A PRIOR RESIDENCE?

3 A. THAT'S CORRECT.

4 Q. AND DO YOU STILL OWN THAT RESIDENCE?

5 A. NO.

6 Q. AND THEN ALSO ON THE NEXT PAGE ON 462, THERE IS
7 ANOTHER ADDRESS IN SAN MATEO. IS THAT --

8 A. THAT WAS ANOTHER RESIDENCE THAT HAS BEEN SOLD.

9 Q. AND THEN NEAR THE BOTTOM OF SNO 462 THERE IS AN
10 ADDRESS IN SAN FRANCISCO, 91 SIXTH AVENUE IN SAN
11 FRANCISCO.

12 A. THAT'S A FORMER RESIDENCE.

Cinelli.ROUGH~1.TXT

13 Q. THAT IS A FORMER RESIDENCE. IS THAT CURRENTLY
14 OWNED BY YOU OR --

15 A. YEAH, I OWN IT IN A TRUST WITH THE KIDS.

16 Q. IS IT A LEASED FACILITY?

17 A. YES, IT'S A CONDOMINIUM THAT'S LEASED OUT.

18 Q. AND THAT -- AND ON THAT 463 THAT ADDRESS AGAIN,
19 THAT'S THE LEASED CONDOMINIUM, THE 91 SIXTH AVENUE?

20 A. UH-HUH.

21 Q. AND THEN BELLEVUE, SAN MATEO, THOSE ARE FORMERS
22 ADDRESSES?

23 A. YES.

24 Q. AND REGAN B. CINELLI, IS THAT YOUR --

25 A. MY FORMER WIFE.
NONCERTIFIED ROUGH DRAFT

□ Rough Draft - 165

1 Q. OH, YOUR FORMER WIFE.

2 A. AND THE 931 ALAMEDA DE LAS PULGAS IS WHERE MY
3 FORMER WIFE AND KIDS RESIDE. AND SO IS MY DAUGHTER. 88
4 HOWARD STREET IS AN OLD -- THAT WAS AN APARTMENT THAT I
5 RENTED WHEN WE BECAME SEPARATED.

6 Q. OKAY. YOU ARE NO LONGER THERE?

7 A. NO. 50 FREMONT WAS AN OFFICE THAT I SHARED.
8 106 EIGHTH AVENUE --

9 Q. THAT WAS AN OFFICE YOU SHARED FOR WHAT
10 BUSINESS?

11 A. PRESTWICK.

12 Q. PRESTWICK?

13 A. YEAH. UH-HUH.

14 Q. OKAY.

15 A. 106 EIGHT AVENUE WAS A CONDO WHEN WE FIRST GOT
16 MARRIED IN SAN FRANCISCO.

17 Q. AND YOU NO LONGER OWN THAT?

Cinelli.ROUGH~1.TXT

18 A. NO. 555 NORTHGATE WAS WHEN I WAS AFFILIATED
19 WITH KNIGHTSBRIDGE PARTNERS. WE OWNED SUPER CUTS AND
20 THAT WAS A CORPORATE HEADQUARTERS FOR SUPER CUTS.

21 Q. OKAY. IT WAS IN A FACILITY, WAS IT LIKE A
22 LEASED FACILITY?

23 A. YES, IT WAS A CORPORATE BUILDING.

24 Q. AND THE ONE MONTGOMERY STREET, SAN FRANCISCO?

25 A. THAT WAS AN OLD OFFICE.

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NONCERTIFIED ROUGH DRAFT

1 Q. FOR PRESTWICK?

2 A. DID I -- YEAH, ACTUALLY, YEAH, IT WAS AN OLD
3 OFFICE, CORRECT.

4 Q. OKAY. AND THAT WAS ALSO FOR PRESTWICK?

5 A. YES.

6 Q. THIS 2190 WASHINGTON STREET?

7 A. THAT WAS MY PARENTS'. THEY ARE NOW BOTH
8 DECEASED.

9 Q. AND THEN REGAN CINELLI --

10 A. MY EX-WIFE.

11 Q. YOUR EX-WIFE. AND THOSE OTHER PEOPLE, REGAN
12 BETH BYERS, PROBABLY HER MAIDEN NAME?

13 A. THAT'S HER MAIDEN NAME.

14 Q. AND THEN ANGELA CINELLI, A DAUGHTER?

15 A. I HAVE NO IDEA. THERE IS NO RELATION.

16 Q. THE NEXT PAGE THERE IS AN AG CINELLI?

17 A. THAT IS MY FATHER.

18 Q. WHO YOU SAID IS NOW DECEASED?

19 A. YES. L KAY IS MY MOM, SHE IS NOW DECEASED.

20 Q. AND THEN ON THE NEXT PAGE MICHAEL CINELLI?

21 A. MY BROTHER.

22 Q. AND KAY CINELLI?

23 A. MY MOM.

Cinelli.ROUGH~1.TXT

24 Q. NOW, DECEASED.

25 THEN GOING TO 468, I THINK WE HAVE GONE OVER
[Rough Draft - 167] NONCERTIFIED ROUGH DRAFT

1 MOST OF THESE ALREADY. 188 EMBARCADERO, WAS THAT --

2 A. OLD OFFICE.

3 Q. PRESTWICK PARTNERS OFFICE --

4 A. UH-HUH.

5 Q. FREMONT STREET, ALSO AN OLD PRESTWICK OFFICE?

6 A. YES. ACTUALLY, 50 FREMONT WAS THE OFFROAD
7 CAPITAL OFFICE.

8 Q. SO ALL OF THESE IN SAN FRANCISCO ARE BASICALLY
9 FORMER OFFICES?

10 A. YES. WITH THE EXCEPTION OF 106 EIGHTH AVENUE
11 WHICH WAS THE FIRST RESIDENCE WHEN I GOT MARRIED. 91
12 SIXTH IS THE FLAT IN SAN FRANCISCO WHICH IS LEASED OUT.

13 MS. ANASTASSIOU: OKAY. I THINK THAT'S ABOUT
14 IT.

15 (OFF THE RECORD.)

16

17

18

19

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[

Exhibit B
(Declaration of
Effie Anastassiou)

Scott J Allen

From: Stephen O'Neill [soneill@MURRAYLAW.com]
Sent: Wednesday, March 12, 2008 1:11 PM
To: Scott J Allen
Subject: FW: Asa Farms vs. Fresh N Healthy

Scott

The sale to Ashman took place yesterday. The sale generated \$525,000 in proceeds. FNH is planning to sell certain assets to Ray Nava today which will generate an additional \$60,000. These funds are being held in trust pending further order of the Court. After FNH sold the assets to Ashman, Ashman conducted an auction. We do not know at this time what Ashman collected from the auction or who bought the assets. We heard that the auction went ok, but not great. After the Nava sale is completed, FNH will still own certain assets. We are compiling a list of those assets. At this point, we expect to be filing a Chapter 7 bankruptcy case next week for FNH. We will inform Judge Fogel of our intention to file bankruptcy at the hearing on Friday. FNH has no intention to distribute the sale proceeds prior to filing bankruptcy.

Pursuant to your request, I will be forwarding you a copy of the appraisal we gave Mr. Gorman. As previously communicated to you, the appraisal includes equipment not owned by FNH and is also outdated.

From: Scott J Allen [mailto:scottesq@salinasaglaw.com]
Sent: Wednesday, March 12, 2008 9:17 AM
To: Stephen O'Neill; Effie Anastassiou Esq.; Scott J Allen; ken@lomgil.com
Cc: Robert A. Franklin; Russ Burbank
Subject: RE: Asa Farms vs. Fresh N Healthy

Steve:

As you know, the Court ordered a hearing to argue Oceano's opposition to disposition of sale proceeds. So that all parties can be on the same page, can you please advise me as to the following:

1. Did the auction of the FNH equipment occur yesterday (3/11) as previously announced?
2. If so, what equipment, trade names and/or labels were sold at auction and what was the aggregate amount of the sale (total auction sale price plus 10% buyer's premium);
3. Were any equipment, trade names and/or labels not sold?
4. Who purchased the assets? and
5. Does Ashman Company have a list of the assets sold, the price paid and the identity of the buyers? If so, I'd ask that a copy of the list be provided.

Additionally, the Court's order added my client, Oceano, as a party to the ASA action. Now that Oceano is officially a party, I ask, again, that Oceano be provided with a copy of the late-2006 appraisal regarding the equipment that FNH purchased from in March of 2007, as well as the bill(s) of sale for FNH's purchase of the equipment. I was told by Ken Gorman yesterday that FNH had previously given a copy of the appraisal to the other plaintiffs in this case (ASA and Braga). Receiving a copy of the appraisal would simply place Oceano on equal footing with the other plaintiffs in the case.

Your cooperation is appreciated.

Scott

From: Stephen O'Neill [mailto:soneill@MURRAYLAW.com]
Sent: Thursday, March 06, 2008 11:12 AM
To: Scott J Allen
Cc: Robert A. Franklin; Russ Burbank
Subject: RE: Asa Farms vs. Fresh N Healthy

Thanks for your email. We respectfully decline your request. The appraisal of which you speak is dated as of September 2006 and includes assets which were never owned by my client. As such it is out of date and irrelevant. In addition, many pieces of equipment that are included in the appraisal and which were purchased by my client have been returned to lessors and/or dismantled. Further, due to the change in the market and wear and tear, the equipments' value has deteriorated substantially. As set forth in our papers, the equipment has been extensively marketed and two experienced auction houses have opined on the value of this equipment. Comerica has consented to the sale of its collateral, securing its \$4 million debt. No purpose is served by producing this document. The sale price is well in excess of the alleged PACA claims of both growers who have asserted such claims. Similarly, the bill of sale is irrelevant to the issue of the value of the equipment in its present state.

From: Scott J Allen [mailto:scottesq@salinasaglaw.com]
Sent: Thursday, March 06, 2008 10:26 AM
To: Scott J Allen; Stephen O'Neill
Cc: Effie Anastassiou Esq.
Subject: RE: Asa Farms vs. Fresh N Healthy

Steve:

I am following up on the below e-mail I sent you on Feb. 27, which confirmed our earlier telephone conversation in which you agreed to ask your client for permission to share the August 2007 appraisal of the FNH equipment. Please let me know as soon as possible whether your client will agree to share the appraisal with my clients.

In my e-mail, I also asked to get copies of the bills of sale for the equipment from March of 2007 and the purchase agreement for the sale that closed in March of 07. Please let me know as soon possible whether FNH will agree to provide that documentation.

Thank you for your cooperation.

Scott Allen

From: Scott J Allen
Sent: Wednesday, February 27, 2008 6:01 PM
To: Stephen O'Neill
Cc: Scott J Allen; Effie Anastassiou Esq.
Subject: RE: Asa Farms vs. Fresh N Healthy

Steve:

During our telephone conversation earlier today you indicated that there had been an appraisal of the equipment of FNH in about August of 2007. I asked that you provide me with a copy of the appraisal and you told me that you would ask your client if you were authorized to share the appraisal with me. By this e-mail, I once again ask that you provide me with a copy of the appraisal. Please let me know as soon as possible whether your client will allow you to release the appraisal to me.

In addition to the August 2007 appraisal, I would like to get a copy of

Exhibit C
(Declaration of
Effie Anastassiou)

GOURMET VEG-PAQ
Hollister, Gilroy & El Centro, California

Item #	Qty.	Effective Date: September 20-21, 2006	Orderly	Fair Market
			Liquidation Value	Value
1	7	IRRIGATION TRAILERS, 30'	\$ 3,500	\$ 5,250
2	2	IRRIGATION TRAILERS, 40'	\$ 1,200	\$ 1,600
3	8	HARVEST TRAILERS, 8' x 16', 2-AXLE	\$ 12,000	\$ 16,000
4	6	HARVEST TRAILERS	\$ 9,000	\$ 12,000
5	1	1989 ZIEMEN FLATBED TRAILER, MODEL 2640, S/N 1ZCE29E36KZP14923, 25', 3-AXLE	\$ 4,000	\$ 6,000
6	3	WATER TANK TRAILERS, 1,000 GALLON	\$ 4,500	\$ 6,000
7	2	WATER TANK TRAILERS, 400 GALLON	\$ 2,500	\$ 3,500
8	2*	FLATBED TRAILERS (HARVEST-MODIFIED)	\$ 3,000	\$ 4,000
9	1*	FLATBED TRAILER (HARVESTER-HAUL)	\$ 1,500	\$ 2,000
10	1	CARSON DUMP TRAILER, 10', S/N 4HXDT10242C041247 (POSSIBLY 2001)	\$ 4,500	\$ 6,500
11	1	2005 CARSON DUMP TRAILERS; 12', S/N 4HXDT10285C093114	\$ 6,000	\$ 8,000
12	2	TOOL CARRIER TRAILERS, 20', 4 WHEEL	\$ 3,000	\$ 4,000
13	1*	TOOL CARRIER TRAILER (TRI-POT), 2 WHEEL	\$ 1,000	\$ 1,500
14	1	TOOL CARRIER FLATBED TRAILER, DROP TYPE, 20'	\$ 1,500	\$ 2,000
15	1	TOOL CARRIER FLATBED TRAILER, DROP TYPE, 22'	\$ 1,500	\$ 2,000
16	1	2005 CARSON CAR CARRIER (FLATBED) TRAILER, S/N 4HXHD16215C093302, 16', 2-AXLE	\$ 7,000	\$ 9,000
17	5*	SPREADER TRAILERS, INCLUDING: 1-GYPSUM, 5 TON 1-GYPSUM, ONE BED, 80" 1-GYPSUM, 12' 1-COMPOST 1-FERTILIZER, 5 TON	\$ 6,500	\$ 9,500
18	1	2005 HALLMARK ENCLOSED TRAILER, TRANSPORT, 14', 2-AXLE, LIC # 4GJ7537, MODEL TS7X14DT2, S/N 16HP1314225A017026	\$ 4,000	\$ 6,000
19	1	1996 JLG LIFT BOOM LIFT, MODEL 35ELECTRIC, S/N 022057-0300022799,	\$ 5,000	\$ 7,000
20	1	FRONT END LOADER CATERPILLER, MODEL 922, S/N 5993180, RUBBER TIRED	\$ 6,000	\$ 8,000
21	1	1999 GMC WATER TRUCK, MODEL C6500, S/N 1GDJ7H1CXXJ515577, 2,000 GALLON STEEL WATER TANK	\$ 12,500	\$ 15,000
22	1*	WILLIAM SCOTSMAN OFFICE TRAILER, 8' x 16'	\$ 3,000	\$ 5,000
23	2*	2003 HONDA QUADS	\$ 7,500	\$ 8,500
24	LOT	MISCELLANEOUS DISCS, C/O: (1) 10' STRATHMORE, MODEL 99, S/N L9428, (1) 13' JOHN DEERE, (1) 14' JOHN DEERE, (2) 80" HAHN, (3) 80" MINIMUM TILT DISCS, (1) 60" (TOMATO), (1) 18' JOHN DEERE, (1) TOWNER 520 (2 ROWS), (1) 3 BED MINIMUM TILT DISC, (1) 40" 4 BED DISC BEDER	\$ 14,000	\$ 18,000
25	LOT	MISCELLANEOUS MULCHERS, C/O: (2) 1 BED 80" BUTTON WILLOWS, (1) 3 BED 20 FT. BUTTON WILLOW, (1) 3 BED 20 FT. BUTTON WILLOW, (1) 4 BED 40" PER/BED	\$ 7,500	\$ 10,000

26	LOT	MISCELLANEOUS MOWING ATTACHMENTS, C/O: (2) SINGLE BED, 80", (1) BHC 3 BED, 20', (1) 3 BED 20 FT.	\$ 6,500	\$ 9,000
27	2	2003 ORTOMECH LETTUCE HARVESTERS, MODEL SVC165B, TRACK TYPE	\$ 75,000	\$ 100,000
28	2	2002 ORTOMECH LETTUCE HARVESTERS, MODEL SV165, WHEEL TYPE	\$ 40,000	\$ 60,000
29	2	2000 ORTOMECH LETTUCE HARVESTERS, MODEL TR155B, PULL TYPE	\$ 22,500	\$ 30,000
30	LOT	MISCELLANEOUS FARM IMPLEMENTS, C/O: (1) GRAIN DRILL (SPREADER), (1) MARVIN TRI-PLANE, 16', (5) SEED PLANTERS, 80" BED, (1) PRECISION VACUUM PLANTER, (1) TRANSPLANTER 80" BED, (1) 16 FT. LAND PLANE MARVIN TRI-PLANE, (1) 10 FT. LAND PLANE, (1) 3-ROW BED SHAPER, (1) FRAME TO APPLY PLASTIC 80" BED, (2) 3 BED, LISTER, (2) RIPPERS, AC600, (2) HARROW, 3 BED, (1) PLOW (4 BOTTOM ROLL OVER), (1) CHISEL POINT, 80", (1) CHISEL PLOW (14 FT.) RED LITTLESTON, (1) RHINO BLADE; HYDRAULIC, (2) CULTIVATOR, 80" BED (FRISSEE & RADICCHIO), (1) CULTIVATOR 80" SIDE KNIVES, HAHN, (1) CULTIVATOR, 1 BED FURROW, (1) 1 BED UNDERCUTTING BAR, (1) 3 BED UNDERSUT BAR, (2) SPRAYERS, DEMCOS (LIQUID), (2) SPRAYERS, (ONE GEARMORE & ONE WHILIE), (2) BOX SCRAPER 10 FT., (1) LITTLESTON, 4 x 40" BEDS, (1) LITTLESTON 80" BED, (1) SULFUR DUSTER, (MODIFIED) 3 BED, (1) SPRAYER (40" BED) FOR TOMATOES, (1) ANGLE BLADES (MANUAL), (2) SMIZER 10 FT., (1) 2 BED CHESIL POINT (15 POINTS), (1) 80" FERTILIZER INJECTOR (FRISSEE), (1) SULFUR DUSTER (GEARMORE), (2) SEED CLEANING EQUIPMENT & TRAILER, (2) STORAGE PLASTIC	\$ 65,000	\$ 90,000
FARM TRACTORS				
31	1	KUBOTA 7500 DT	\$ 3,000	\$ 4,000
32	1	JOHN DEERE 7200	\$ 22,500	\$ 27,500
33	1	JOHN DEERE 6410, S/N LO6410X306927	\$ 30,000	\$ 35,000
34	2	JOHN DEERE 5510, S/N LV5510S351796, LV5510S351753	\$ 35,000	\$ 45,000
35	1	JOHN DEERE 6400	\$ 15,000	\$ 20,000
36	7	JOHN DEERE 2955, S/N LO2955W763190 (1992); LO2955V763166 (1992); LO2955W763746 (1992), (4) UNKNOWN	\$ 105,000 15.0	\$ 140,000
37	1	JOHN DEERE 4955	\$ 35,000	\$ 40,000
38	2	JOHN DEERE 8440	\$ 25,000	\$ 30,000
39	1	1998 JOHN DEERE 8400, S/N RW8400P020463	\$ 60,000	\$ 80,000
40	1	JOHN DEERE 8410T, RUBBER TRACK	\$ 100,000	\$ 125,000
41	1*	JOHN DEERE 4050	\$ 17,500	\$ 22,500
42	1	JOHN DEERE 4650 (BEING REBUILT, DISASSEMBLED)	\$ 5,000	\$ 8,000
→ 43	1	2002 JOHN DEERE 6220	\$ 20,000	\$ 25,000
44	4	2004 MASSEY FERGUSON 4253, S/N H27047, (3) UNKNOWN	\$ 24,000	\$ 32,000
45	1*	MASSEY FERGUSON 390T	\$ 7,500	\$ 10,000
46	1	1987 CATERPILLER BELTED TRACTOR, MODEL CHALLENGER 65, S/N 7YC0064M RUBBER TRACK BELT	\$ 25,000	\$ 30,000

47	1	KUBOTA, MODEL B7500, 4WD, S/N 30877 (EST. 1987)	\$ 2,000	\$ 3,500
48	1	WABCO MOTOR GRADER, MODEL 440	\$ 5,000	\$ 7,000
IRRIGATION BOOSTER PUMPS				
49	1	CATERPILLER, MODEL 3056E2310175, S/N 35600537	\$ 12,000	\$ 14,000
50	1	CATERPILLER, MODEL 3056E2310175, S/N 35600534	\$ 12,000	\$ 14,000
51	1	CATERPILLER, MODEL 3056E2310175, S/N 35601534	\$ 12,000	\$ 14,000
52	1	CATERPILLER, MODEL 3116, S/N 5EN02421	\$ 10,000	\$ 12,000
53	1	CATERPILLER, S/N 5EN02945	\$ 10,000	\$ 12,000
54	1	CATERPILLER, MODEL 3056E23310175, S/N 35603331	\$ 10,000	\$ 12,000
55	1	CATERPILLER, MODEL 3056E, S/N 35603332	\$ 10,000	\$ 12,000
56	1	CATERPILLER, S/N 35601531	\$ 10,000	\$ 12,000
57	1	CATERPILLER, S/N 5EN01240	\$ 10,000	\$ 12,000
58	1	CATERPILLER, 7MS02092	\$ 10,000	\$ 12,000
59	3	SAME DEUTZ, MODEL 10006AT	\$ 5,000	\$ 7,500
60	1	PERKINS, S/N U528554	\$ 5,000	\$ 7,500
61	1*	JOHN DEERE, MODEL 6068DF150, S/N T06068D705484	\$ 5,000	\$ 7,500
62	1	DETROIT	\$ 5,000	\$ 7,500
63	1	CATERPILLER, MODEL 8N5751	\$ 5,000	\$ 7,500
FORK LIFTS				
64	1*	CATERPILLER, MODEL 2EC15, S/N A2EC160800	\$ 2,000	\$ 3,000
65	1	CATERPILLER, MODEL 2EC30, S/N A21C362560, ELECT. 3000# CAP.	\$ 3,000	\$ 4,000
66	1	CATERPILLER, MODEL GP25, S/N 5AM03030, 5,000 # CAP.	\$ 3,500	\$ 5,000
67	1	V-LIFT, MODEL SF-25L, 5000# CAPACITY, LPG	\$ 4,000	\$ 6,000
68	1	CATERPILLER, MODEL M50B, S/N 62B 910, ELECT. 5000# CAPACITY	\$ 4,000	\$ 6,000
69	1*	CATERPILLER, MODEL M50B, S/N 91Y544	\$ 4,000	\$ 6,000
70	1*	CATERPILLER, MODEL 2EC15, S/N A2EC160811	\$ 3,000	\$ 4,000
71	1	CATERPILLER, MODEL M50B, S/N 92B 911, ELECT. 5000# CAPACITY	\$ 3,000	\$ 4,000
72	1*	CLARK	\$ 2,000	\$ 3,000
73	1	NISSAN FORKLIFT, MODEL CYB02L25V, ELECTRIC	\$ 2,000	\$ 3,000
74	1	TOYOTA, MODEL 3FGL25, S/N 3FGL25-21306	\$ 1,500	\$ 2,000
75	1	CHAMP, MODEL FV405, S/N CC746426, 4000# CAPACITY, GAS	\$ 5,000	\$ 7,000
76	1	CATERPILLER, MODEL 2EC30, S/N A2EC320004, ELECT. 3000# CAPACITY	\$ 3,000	\$ 4,000
77	1	HYSTER, 5000# CAP. LPG	\$ 3,000	\$ 4,000
BOBTAIL REEFER TRUCKS				
78	1*	1986 ISUZU BOBTAIL REEFER TRUCK	\$ 3,500	\$ 4,500
79	1*	1988 HINO BOBTAIL REEFER TRUCK	\$ 3,500	\$ 4,500
80	1	1992 ISUZU BOBTAIL REEFER TRUCK, MODEL FTR W/ 1984 22' BOX, S/N JALM7A1U1N3200829	\$ 5,000	\$ 7,000
81	1	1994 INTERNATIONAL BOBTAIL REEFER TRUCK, MODEL 4900, W/ 22' BOX, S/N IHTSDAAP4RH593183	\$ 6,000	\$ 8,000
82	1	1997 FREIGHTLINER BOBTAIL REEFER TRUCK, MODEL FL70, W/ 24' BOX, S/N 1FV6H6BA20VL540735	\$ 10,000	\$ 13,000
83	1*	1997 GMC BOBTAIL REEFER TRUCK	\$ 10,000	\$ 13,000
84	1*	1998 GMC BOBTAIL REEFER TRUCK	\$ 10,000	\$ 13,000
85	1	1999 GMC BOBTAIL REEFER TRUCK, MODEL 6500, W/ 26' BOX, S/N 1GDJ7H1C7XJ504035	\$ 12,500	\$ 15,000

86	1	1999 PETERBILT, S/N IXP-5DU9X-3-XD495619, 2-AXLE CONV. CAB W/ SLEEPER	\$ 20,000	\$ 25,000
87	1*	2000 GMC BOBTAIL REEFER TRUCK	\$ 15,000	\$ 18,000
88	1	2000 INTERNATIONAL BOBTAIL REEFER TRUCK, MODEL 4700, W/ 24' BOX, S/N 1HTSCAAM3YH243647	\$ 15,000	\$ 18,000
89	1	2003 GMC BOBTAIL REEFER TRUCK, MODEL C7500, S/N 1GM7J1363F50708, 30' BOX	\$ 25,000	\$ 30,000
90	1	2003 GMC BOBTAIL REEFER TRUCK, MODEL C7500, S/N 1GDM7J1393F507214, 30' BOX	\$ 25,000	\$ 30,000
91	1	2004 INTERNATIONAL BOBTAIL REEFER TRUCK, MODEL 4400, DT530, 30' BOX, S/N 1HTMKADN74H612746	\$ 30,000	\$ 35,000
92	1	1990 GMC BOBTAIL REEFER TRUCK, MODEL 7000, CAB FORWARD, 22' BOX, S/N J8DM7H1U1L3201623	\$ 6,000	\$ 8,000
REEFER TRAILERS				
93	1	1998 GREAT DANE REFRIGERATED VAN TRAILER, S/N 1GRAA0627WW01360, 2-AXLE, 53'	\$ 14,000	\$ 16,000
94	1	1982 GREAT DANE REFRIGERATED VAN TRAILER, S/N 1GRBBA9025CS082530, 45'	\$ 4,000	\$ 6,000
PICKUP TRUCK & AUTOS				
95	1*	1991 FORD F150 PICK-UP	\$ 800	\$ 1,200
96	1	1993 FORD F150 PICK-UP	\$ 1,200	\$ 1,500
97	3	1998 DODGE PICK-UP TRUCKS, RAM 1500, S/N 1B7HC1640WS562782, (2) UNKNOWN	\$ 7,500	\$ 9,000
98	1*	1999 FORD F150 PICK-UP	\$ 4,500	\$ 5,500
99	1*	2000 FORD F350 PICK-UP	\$ 7,000	\$ 8,500
100	2*	2001 FORD F150 PICK-UP	\$ 6,000	\$ 7,500
101	1*	2001 FORD F350 PICK-UP	\$ 7,500	\$ 9,000
102	1*	2002 CHEVY	\$ 8,000	\$ 11,000
103	2*	2004 CHEVY	\$ 20,000	\$ 26,000
104	1	1976 FORD FLATBED TRUCK, MODEL 700 S/N C70EVV70258 (INSTALLING REBUILT ENGINE)	\$ 2,000	\$ 3,000
105	1*	1997 TOYOTA CAMRY	\$ 3,000	\$ 4,000
106	1*	2000 HONDA ACCORD	\$ 5,000	\$ 7,500
107	1	2005 FORD MECHANICS TRUCK, F-350 S/N 1FDWF35P85E07867, W/UTILITY BODY	\$ 22,000	\$ 25,000
108	LOT	(18,746) SECTIONS OF SPRINKLER PIPE, 30' x 3"; (450) SECTIONS OF SPRINKLER PIPE, 30' x 4"; (169) SECTIONS OF MAIN LINE, 40' x 6"; (188) SECTIONS OF MAIN LINE, 40' x 8"; (249) SECTIONS OF MAIN LINE, 40' x 10"; (661) END PLUGS (3"), (24) END PLUGS (4"), (13) END PLUGS (6"), (4) END PLUGS (8"), (4) END PLUGS (10"), (23) "T"S (3"), (3) "T"S (8"), (16) ELBOWS (3"), (7) ELBOWS (6"), (11) ELBOWS (8"), (1) ELBOW (10"), (1) ELBOW (10") 45 ANGLE, (9) REDUCERS (10" TO 6"), (2) REDUCERS (10" TO 8"), (344) VALVES (3"), (3) VALVES (4"), (1) VALVE (6"), (1) VALVE (8"), (1) VALVE (10"), (9) "F" (3"), (6) "F" (4"), (59) RING LOCKS (6"), (132) RING LOCKS (8"), (26) RING LOCKS (10")	\$ 225,000	\$ 650,000

109	LOT	MISCELLANEOUS IRRIGATION PIPE, (EL CENTRO), C/O: (13500) SECTIONS OF SPRINKLER PIPE, 30' x 3", (245) SECTIONS OF MAIN PIPE, 40' x 10", (24) SECTIONS OF MAIN PIPE, 40' x 8", (52) SECTIONS OF MAIN PIPE, 40' x 6", (341) VALVES (4" x 3"), (4) LINE FILTERS (10"), (2) LINE FILTERS (8"), (4) PIE FOOT (10"), (2) PIE FOOT (8"), (%) TEE'S (10"), (1) TEE'S (8"), (350) END PLUGS (3"), (360) RING LOCKS (10"), (33) RING LOCKS (8"), (64) RING LOCKS (6")	\$ 150,000	\$ 400,000
110	LOT	MISCELLANEOUS STORAGE CONTAINERS, MOST REFRIGERATED, C/O: (1) GENSTAR, 20 FT., MODEL ACC-1003 MX, S/N GSTU704308, (1) ACE CONTAINER-PHILIPPINES, 20 FT., S/N GB/C946-LR/1989, (1)TEXU286691-3-4, S/N 2866917. (1) CONTAINERS (SHOP) 20 FT., MODEL F1059, S/N 30-46002, (1) CONTAINER (SHOP) 20 FT., MODEL 200133, S/N 810133, CONTAINER (SHOP) 20 FT., MODEL DKC92, S/N 812652, (1) CONTAINER (SHOP) 20 FT., (1) CONTAINER (FIELD), 20 FT., (5) WOOD SHEDS (8' x 8' x 8')	\$ 18,000	\$ 22,000
TOTAL			\$ 1,753,200	\$ 2,829,050

GOURMET VEG-PAQ

1600 Citation Way

Hollister, CA

Item #	Qty.	Effective Date: September 20, 2006	Orderly Liquidation Value	Fair Market Value
PROCESSING				
1	1	VEGETABLE PROCESSING LINE, STAINLESS STEEL, C/O: 2-MIXING CONVEYORS, 24" x 16' 1-INCLINE TRANSFER CONVEYOR, 28" x 24' 1-HMI FINES ELIMINATOR SHAKER, 3 TIER, 36" x 13' 1-PRODUCT SORTING CONVEYOR, 36" x 10' 1-INCLINE TRANSFER CONVEYOR, 27" x 21' 1-WATER FLUME, 32" x 15' 1-DEWATERING BELT CONVEYOR, 32" x 7' 1-WATER FLUME, 16" x 16' 1-DEWATERING BELT CONVEYOR, 32" x 7' 1-WATER FLUME, 24" x 22' 1-DEWATERING SHAKER CONVEYOR, 32" x 7' 1-DEWATERING SHAKER, 30" x 8' 1-WATER TANK, 30" x 44" x 14' 1-WATER TANK, 36" x 52" x 8' 1-WATER TANK, 30" x 24" x 12' 10-CUSTOM MADE SPIN DRYERS, 33 GALLON BASKETS 1-PLASTIC STORAGE TANK, 1,000 GALLON 2-INCLINE CONVEYORS, 24" x 30', W/HOPPERS → 2-ISHIDA SCALES, 1-MODEL M-214W-S/70-WP, S/N 84064 (2005) & MODEL CCW-M-214W-S/70WP, S/N 174452, 16 BUCKETS 1-2000 PACMAN VACUUM FORM, FILL & SEAL MACHINE, MODEL 9500, S/N 95008243 1-GORING KERR METAL DETECTOR, 12" x 24" OPENING 1-RAMSEY METAL DETECTOR, THERMOMETAL SCOUT lie, 12" x 24" OPENING MISC. TAKE-OFF CONVEYORS, SUPPORT STRUCTURE, ETC.	\$ 500,000	\$ 650,000
2	LOT	MISC. SUPPORT EQUIPMENT, C/O: SAND WATER FILTER, LADDERS, FLOOR MATS, CARTS, CONVEYORS, ETC.	\$ 12,000	\$ 15,000
3	1	CLAMSHELL MACHINE, PROTOTYPE, W/PREFERRED PACKAGING HEAT SEAL TUNNEL, MODEL PP180828-SS, S/N A141217 & CLAMSHELL LABELER	\$ 15,000	\$ 20,000
4	1	COMPRESSED AIR SYSTEM, C/O: 1-SULLIVAN PALATEK AIR COMPRESSOR, MODEL 200, 20 HP 1-AMERICAN AIR COMPRESSOR, MODEL 20BR, S/N 00K010, 20 HP	\$ 6,000	\$ 8,000

		2-ARROW AIR DRYERS		
✓ 5	1	CHILLED WATER SYSTEM, C/O: 1-BOHN WATER CHILLER, MODEL BOL-3500-460-3, S/N D94J04130 1-LARKIN WATER CHILLER	\$ 8,000	\$ 12,000
6	1	SWECO SHAKER, 40" DIA., 2.5 HP, STAINLESS STEEL	\$ 4,000	\$ 6,000
		TOTAL	\$ 545,000	\$ 711,000

GOURMET VEG-PAQ
240 Commercial Ave.
El Centro, CA

Item #	Qty.	Effective Date: September 21, 2006	Orderly Liquidation Value	Fair Market Value
1	1	VEGETABLE PROCESSING LINE, STAINLESS STEEL, C/O: 1-INCLINE CONVEYOR, 28" Xx 24' 1-3 TIER FINES ELIMINATOR SHAKER, 36" x 13' 1-PRODUCT SORTING CONVEYOR, 42" x 10' 1-INCLINE PRODUCT TRANSFER CONVEYOR, 27" x 21' 1-WATER FLUME, 32" x 16' 1-DEWATERING SHAKER, 30" x 7' 1-WATER FLUME, 32" x 31' 1-WATER FLUME, 32" x 41' 2-WATER TANK, 30" x 14' 1-WATER TANK, 24" x 10'	\$ 30,000	\$ 40,000
2	1	PLATFORM FOR ISHIDA SCALE, STAINLESS STEEL, 9' x 14'. 2 LEVELS, INCLUDING: 1-HOPPER & CONVEYOR BELT, 24" x 8' 1-INCLINE CONVEYOR, 24" x 30', PLASTIC CLEATED BELT ALL ABOVE W/STAIRS, RAILING ETC.	\$ 17,500	\$ 22,500
TOTAL-EL CENTRO, CA			\$ 47,500	\$ 62,500

GILROY MACHINING
455 E. Luchissa Avenue
Gilroy, California

Item #	Qty.	Effective Date: September 20, 2006	Orderly Liquidation Value	Fair Market Value
1	1	LAGUN VERTICAL MILL, MODEL FVA-4LA, S/N 473568, 50 TAPER, 15" x 67" TABLE, POWER FEED TABLE & KNEE, 28-1400 RPM	\$ 10,000	\$ 14,000
2	1	1967 SHIZUOKA CHORI VERTICAL MILL, 10" x 48" POWER FEED TABLE, MODEL VHR-G, S/N 1230, BELT DRIVE HEAD, KNEE FEED	\$ 2,000	\$ 3,000
3	1	1978 CINCINNATI VERTICAL MACHINING CENTER, NC, MODEL 5V-1000, S/N 5525A01-78-3, CINTIMATIC, ACRAMATIC 8-D NC CONTROLS	\$ 1,000	\$ 3,000
4	1	1952 TOS KURIM UNIVERSAL MILL, 15" x 76" TABLE, MODEL FA5U, S/N 058189	\$ 1,000	\$ 1,500
5	1	HARDINGE AUTOMATIC CHUCKER, S/N AHC-608, W/ BAR FEEDER	\$ 750	\$ 1,250
6	1	SOUTH BEND VERTICAL MILL, EVS CHIPMASTER II, S/N SE39301	\$ 6,000	\$ 7,500
7	1	1995 TOS TRENCIN ENGINE LATHE, MODEL SN50C, S/N 085020950123, 20"/27" SWING x 72" CENTERS, REMOVABLE GAP	\$ 5,000	\$ 7,000
8	1	PONAR WROCLAW ENGINE LATHE, MODEL TUR-63, S/N 41114, 24" x 80"	\$ 4,000	\$ 6,000
9	1	BIG JOE ENGINE LATHE, 13" x 32", S/N 2519	\$ 1,000	\$ 1,500
10	1	NORTON CYLINDRICAL GRINDER, MODEL LENNER A26, S/N 6X30CTUNAC 8215362	\$ 1,500	\$ 3,000
11	1	FICEP IRON WORKER, S/N 37-08	\$ 2,500	\$ 4,000
12	1	1981 DOALL SURFACE GRINDER, 6" x 12", AUTOMATIC, MODEL 100 6x12, S/N 394-81-290	\$ 1,250	\$ 1,750
14	1	LINCOLN WELDING POWER SUPPLY, MODEL POWER MIG 255C	\$ 1,500	\$ 2,000
19	1	SHAPECUTTER, SINGLE HEAD ULTRA-GRAPH HR SERIES, 44" X 54" TABLE	\$ 1,500	\$ 2,000
20	1	CLARK FORK LIFT	\$ 2,000	\$ 3,000
21	LOT	MISCELLANEOUS PLANT EQUIPMENT, INCLUDING: SPEEDAIRE AIR COMPRESSOR, 2-UNIBRAZE WELDING POWER SUPPLIES, L-TEC PLASMA CUTTER, HYPOTHERM PLASMA CUTTER, 150 TON "H" FRAME PRESS, HORIZONTAL BAND SAW, KEYWAY CUTTER, CRAFTSMAN VERTICAL BAND SAW, GRINDERS, VISES, BENCHES, SHELVING, OFFICE EQUIPMENT, BENCH DRILL PRESSES, SANDERS, ETC.	\$ 6,000	\$ 8,000
TOTAL-GILROY MACHINING			\$ 47,000	\$ 68,500

GOURMET VEG-PAQ (Epicure Select)
4395 Davidson Road
Gilroy, CA

Effective Date: September 20, 2006			Orderly Liquidation Value	Fair Market Value
Item #	Qty.			
1	1	ARTICHOKE PROCESSING LINE, STAINLESS STEEL, C/O: 1-ARTICHOKE SAW TABLE, 3' x 4.5' x 3' 1-PRE-PREP BELT CONVEYOR, 22" x 21', UPPER LEVEL 1-PRE-PREP BELT CONVEYOR, 16" x 12', LOWER LEVEL 1-PRODUCT WASH TANK & CONVEYOR, 4' x 16' 1-PRODUCT DRYING BELT, 3' x 9' 1-WATER TANK, 34" x 28" x 26" 1-CULLS CONVEYOR, 10' LONG	\$ 12,000	\$ 15,000
2	1	TURRATTI ARTICHOKE TRIM MACHINE, ROTARY, MODEL 1519, S/N 98/63-5, W/HYDRAULIC POWER PACK	\$ 5,000	\$ 8,000
3	1	1995 MULTIVAC VACUUM SEALER, MODEL AG6, S/N 2070	\$ 3,500	\$ 5,000
4	1	ARTICHOKE DEEP FRYING SYSTEM, C/O: 1-DOUGH MIXER 1-DEEP FRYER	\$ 6,000	\$ 8,000
5	1	WATER CHILLER, 15 TON	\$ 7,000	\$ 10,000
6	LOT	MISC. EQUIPMENT, C/O: CARTON TAPER, IMPULSE FOOT OPERATED SEALER, AIR COMPRESSOR, TABLES, CONVEYORS, MAINTENANCE SHOP EQUIPMENT, ETC.	\$ 8,000	\$ 11,000
TOTAL			\$ 41,500	\$ 57,000

Exhibit D
(Declaration of
Effie Anastassiou)

Scott J Allen

From: Stephen O'Neill [soneill@MURRAYLAW.com]
Sent: Thursday, March 06, 2008 11:12 AM
To: Scott J Allen
Cc: Robert A. Franklin; Russ Burbank
Subject: RE: Asa Farms vs. Fresh N Healthy

Thanks for your email. We respectfully decline your request. The appraisal of which you speak is dated as of September 2006 and includes assets which were never owned by my client. As such it is out of date and irrelevant. In addition, many pieces of equipment that are included in the appraisal and which were purchased by my client have been returned to lessors and/or dismantled. Further, due to the change in the market and wear and tear, the equipments' value has deteriorated substantially. As set forth in our papers, the equipment has been extensively marketed and two experienced auction houses have opined on the value of this equipment. Comerica has consented to the sale of its collateral, securing its \$4 million debt. No purpose is served by producing this document. The sale price is well in excess of the alleged PACA claims of both growers who have asserted such claims. Similarly, the bill of sale is irrelevant to the issue of the value of the equipment in its present state.

From: Scott J Allen [mailto:scottesq@salinasaglaw.com]
Sent: Thursday, March 06, 2008 10:26 AM
To: Scott J Allen; Stephen O'Neill
Cc: Effie Anastassiou Esq.
Subject: RE: Asa Farms vs. Fresh N Healthy

Steve:

I am following up on the below e-mail I sent you on Feb. 27, which confirmed our earlier telephone conversation in which you agreed to ask your client for permission to share the August 2007 appraisal of the FNH equipment. Please let me know as soon as possible whether your client will agree to share the appraisal with my clients.

In my e-mail, I also asked to get copies of the bills of sale for the equipment from March of 2007 and the purchase agreement for the sale that closed in March of 07. Please let me know as soon possible whether FNH will agree to provide that documentation.

Thank you for your cooperation.

Scott Allen

From: Scott J Allen
Sent: Wednesday, February 27, 2008 6:01 PM
To: Stephen O'Neill
Cc: Scott J Allen; Effie Anastassiou Esq.
Subject: RE: Asa Farms vs. Fresh N Healthy

Steve:

During our telephone conversation earlier today you indicated that there had been an appraisal of the equipment of FNH in about August of 2007. I asked that you provide me with a copy of the appraisal and you told me that you would ask your client if you were authorized to share the appraisal with me. By this e-mail, I once again ask that you provide me with a copy of the appraisal. Please let me know as soon as possible whether your client will allow you to release the appraisal to me.

In addition to the August 2007 appraisal, I would like to get a copy of

1. the purchase agreement(s), through which FNH acquired title to the assets. It is my understanding (open to correction), that the purchase closed in about March of 2007; and
2. Bills of Sale for FNH's purchase of the equipment in March of 2007.

Please let me know if you will voluntarily provide me with this information.

From: Stephen O'Neill [mailto:soneill@MURRAYLAW.com]
Sent: Wednesday, February 27, 2008 2:34 PM
To: Scott J Allen
Subject: FW: Asa Farms vs. Fresh N Healthy

Scott

Follow up on our conversation, here is an email string we had regarding the "value" of the equipment, if you need further info, please call

From: Russ Burbank [mailto:rburbank@bpmlp.com]
Sent: Thursday, February 21, 2008 3:27 PM
To: Izmirian, Robert; drferree@comerica.com; Stephen O'Neill
Subject: RE: Asa Farms vs. Fresh N Healthy

Bob,

I believe Ken Gorman talked to Lloyd Ashman who confirmed that \$60K is a "fair value" for the equipment and truck at Gilroy Machine. Ashman is one of the most active machine tool appraisers and auctioneers in the US.

We solicited two proposals to auction the FNH equipment – one from Ashman and one from Martella (both are attached). Martella's proposal was conditioned on the equipment being available for their Feb 15 auction in Tipton, which has now come and gone, and FNH would assume all auction risks. Martella was also quite concerned about meeting the Feb 15 date, because farm equipment begins to lose value as we get further into the growing season.

Ashman's quote is for a fixed price (i.e., Ashman assumes all the risks of the auction) and is for an on-site auction in Gilroy. I asked Martella to quote a fixed-price auction in Gilroy. They declined to meet a price range that I suggested would make them competitive with Ashman.

I should point out that these negotiations were taking place as Martinez and other lessors were self-helping themselves to equipment that we initially thought belonged to FNH. Ashman's final quotation, which is attached hereto, was finalized only after we were able to provide Ashman some assurance that the equipment he was buying actually belonged to FNH.

After much discussion, the company and Comerica agreed that Ashman was the best offer.

Russ

Russ Burbank
BPM Consulting Group
Direct: 415-677-4530
Cell: 415-381-9229

From: Izmirian, Robert [mailto:RIZMIRIAN@Buchalter.com]
Sent: Thursday, February 21, 2008 2:50 PM
To: Ken Gorman

Cc: Russ Burbank; David Ferree
Subject: RE: Asa Farms vs. Fresh N Healthy

Ken, I am told that Steve O'Neill is out of town. I've copied Russ Burbank, who is the consultant to FNH who has the most first hand knowledge of the deals to sell assets.

I'm not sure what we can show you to convince you that these liquidation values are the best we can reasonably get. The assets are being depleted as we speak. There is no security, rental charges are accruing, and pipe out in the fields is subject to "disappearing" because it isn't clearly identified and is easy to swipe. The Bank, as secured creditor, has zero interest in selling for less than the maximum value it can obtain. The company and the Bank strongly believe the sales should be consummated before more value is lost. If you stand in the way there is likely no way to sell in the near term and everyone loses.

From: Ken Gorman [mailto:Ken@lomgil.com]
Sent: Thursday, February 21, 2008 2:45 PM
To: Izmirian, Robert
Subject: RE: Asa Farms vs. Fresh N Healthy

I also care about getting FMV and the representations about the price because those were the inducements to the agreement. I appreciate that the prices are "holding" but that is no guarantee that FMV will be received. We do not approve of an open-ended deal that could result in a sale at far less than FMV, which these documents seem to allow. Am I misunderstanding this?

This is the first we have heard about the deal with Martinez. I will advise my client.

From: Izmirian, Robert [mailto:RIZMIRIAN@Buchalter.com]
Sent: Thursday, February 21, 2008 2:39 PM
To: Ken Gorman
Cc: David Ferree
Subject: RE: Asa Farms vs. Fresh N Healthy

The reason I didn't include the specific contract amounts is that things constantly change as we learn that an asset may not be owned by FNH, but, for instance, by a leasing co. All I think you should care about is that the proceeds are impounded. Right now the prices of \$60k and \$525k seem to be holding. The IP pertaining to labels, trademarks and tradenames is being "swapped" for \$1 to Martinez to get him to cooperate to allow the sales--he controls the premises and a lot of the leased equipment.

From: Ken Gorman [mailto:Ken@lomgil.com]
Sent: Thursday, February 21, 2008 12:46 PM
To: Izmirian, Robert
Subject: RE: Asa Farms vs. Fresh N Healthy

Bob: My concern is that the documents do not reflect the contracts of prices that have been referenced in the previous documents which are the bases for our consent: \$60,000 for the Gilroy Machinery and \$525,000 as in the Ashman contract.

From: Izmirian, Robert [mailto:RIZMIRIAN@Buchalter.com]
Sent: Thursday, February 21, 2008 12:17 PM
To: Ken Gorman
Cc: Robert A. Franklin; Stephen O'Neill; David Ferree
Subject: RE: Asa Farms vs. Fresh N Healthy

Thanks Ken. Here is the Stip and proposed Order I drafted, which has been approved by FNH's counsel. If it's OK with you we'll get it circulated and executed.

From: Ken Gorman [mailto:Ken@lomgil.com]
Sent: Thursday, February 21, 2008 12:03 PM
To: Izmirian, Robert
Subject: Asa Farms vs. Fresh N Healthy

Dear Mr. Izmirian:

Thank you for the documentation via e-mail.

Based thereon, and on your assurances that the bank will hold all proceeds from the sale of the equipment until such time as the PACA claims have been resolved, we will stipulate to the sales specified.

Thank you,

Ken Gorman

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Exhibit E
(Declaration of
Effie Anastassiou)

Appraisal Summary

<u>Company</u>	<u>Location</u>	<u>Orderly Liquidation Value</u>	<u>Fair Market Value</u>
Gourmet Veg-Paq	Hollister, Gilroy & El Centro, CA	\$ 1,753,200.00	\$ 2,829,050.00
Gourmet Veg-Paq	1600 Citation Way, Hollister, CA	\$ 545,000.00	\$ 711,000.00
Gourmet Veg-Paq	240 Commercial Ave., El Centro, CA	\$ 47,500.00	\$ 62,500.00
Gilroy Machining	455 E. Luchisa Ave., Gilroy, CA	\$ 47,000.00	\$ 68,500.00
Gourmet Veg-Paq (Epicure Select)	43950 Davidson Rd., Gilroy, CA	\$ 41,500.00	\$ 57,000.00
		<u>\$ 2,434,200.00</u>	<u>\$ 3,728,050.00</u>